

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 \_\_\_\_\_ ) Case No.  
8 ) 1:17-MD-2804  
9 )  
10 THIS DOCUMENT RELATES ) Hon. Dan A.  
11 TO ALL CASES ) Polster  
12 )

13 FRIDAY, NOVEMBER 13, 2020

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
15 CONFIDENTIALITY REVIEW

16 - - -

17 Remote videotaped deposition of  
18 Drug Enforcement Agency 30(b)(6) designee  
19 Claire Brennan, held at the location of the  
20 witness commencing at 10:05 a.m. Eastern  
21 Time, on the above date, before Carrie A.  
22 Campbell, Registered Diplomate Reporter  
23 and Certified Realtime Reporter.

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- - -

1	INDEX		
2			PAGE
3	APPEARANCES.....		2
4	EXAMINATIONS		
5	BY MS. SWIFT.....		10
6	BY MR. MOUGEY.....		141
7	BY MS. SWIFT.....		220
8			
9	EXHIBITS		
10	No.	Description	Page
11	1	US Department of Justice	144
12		Report of Investigation,	
13		US-DEA-00031084 -	
14		US-DEA-00031099	
15	2	US Department of Justice	120
16		Report of Investigation,	
17		US-DEA-00030921 -	
18		US-DEA-00030925	
19	3	Chemical Handler's Manual,	74
20		January 2004, Appendix	
21		E-3,	
22		WAGMDL00396010	
23	4	US Department of Justice	122
24		Report of Investigation,	
25		US-DEA-00032745 -	
26		US-DEA-00032760	
27	5	US Department of Justice	124
28		Report of Investigation,	
29		US-DEA-00030763 -	
30		US-DEA-00030786	
31	6	US DEA May 17, 2006 letter	56
32		to Todd Polarolo,	
33		WAGMDL00709510 -	
34		WAGMDL00709512	

1	7	US Department of Justice Report of Investigation, US-DEA-00031395 - US-DEA-00031398	126
2			
3	8	July 28, 2006 letter to Barbara Dobric, WAGMDL00387642 - WAGMDL00387650	71
4			
5	9	US Department of Justice Report of Investigation, US-DEA-00033081 - US-DEA-00033107	78
6			
7			
8	Plaintiffs		
9	9	5/27/2006 Walgreens Memorandum from Justin Joseph to Todd Polarolo, WAGMDL00709508 - WAGMDL00709509	205
10			
11	10	June 28, 2009 letter to Robert Corso, WAGMDL00493688 - WAGMDL00493691	91
12			
13	11	US Department of Justice Report of Investigation, US-DEA-00033080	95
14			
15	12	US Department of Justice Report of Investigation, US-DEA-00032761 - US-DEA-00032803	128
16			
17	13	US Department of Justice Report of Investigation, US-DEA-00030873 - US-DEA-00030897	130
18			
19	14	US Department of Justice Report of Investigation, US-DEA-00030898 - US-DEA-00030920	135
20			
21	15	US Department of Justice Report of Investigation, US-DEA-00031425 - US-DEA-00031428	98
22			
23			
24			
25			

1	16	US Department of Justice	138
2		Report of Investigation,	
3		US-DEA-00031015 -	
		US-DEA-00031029	
4	18	US Department of Justice	103
5		Report of Investigation,	
6		US-DEA-00031492 -	
7		US-DEA-00031505	
8	19	US Department of Justice	114
9		Report of Investigation,	
10		US-DEA-00031514 -	
11		US-DEA-00031522	
12	20	US Department of Justice	20
13		November 4, 2020 letter to	
14		Jeff Gaddy	
15	24	DEA Memorandum dated	40
16		October 27, 2009,	
17		US-DEA-00056902 -	
18		US-DEA-00056915	
19	26	DEA Memorandum dated	245
20		October 5, 2010,	
21		US-DEA-00056901	
22		(Exhibits attached to the deposition.)	
23		CERTIFICATE.....	260
24		ACKNOWLEDGMENT OF DEPONENT.....	262
25		ERRATA.....	263
		LAWYER'S NOTES.....	264

1 VIDEOGRAPHER: We are now on  
2 the record.

3 My name is Dan Lawlor. I'm a  
4 videographer representing Golkow  
5 Litigation Services.

6 Today's date is November 13,  
7 2020, and the time is 10:05 a.m.

8 This remote video deposition is  
9 being held in the matter of National  
10 Prescription Opiate Litigation, MDL  
11 Number 2804.

12 All parties to this deposition  
13 are appearing remotely and have agreed  
14 to the witness being sworn in  
15 remotely.

16 Due to the nature of remote  
17 reporting, please pause briefly before  
18 speaking to ensure all parties are  
19 heard completely.

20 The deponent is Claire Brennan.

21 Counsel will be noted on the  
22 stenographic record.

23 The court reporter is Carrie  
24 Campbell, who will now swear in the  
25 witness.

1                               CLAIRE BRENNAN,  
2    of lawful age, having been first duly sworn  
3    to tell the truth, the whole truth and  
4    nothing but the truth, deposes and says on  
5    behalf of the Defendant Walgreens, as  
6    follows:

7

8                               DIRECT EXAMINATION

9    QUESTIONS BY MS. SWIFT:

10               Q.       Good morning, Ms. Brennan.  
11    Once again, my name is Kate Swift, and I'm a  
12    lawyer for Walgreens.

13                        Would you please state your  
14    full name?

15               A.       Claire Marie Brennan.

16               Q.       Am I correct that you are a  
17    section chief in the diversion control  
18    division of the Drug Enforcement  
19    Administration?

20               A.       Yes.

21               Q.       Do you work in Arlington,  
22    Virginia?

23               A.       Yes.

24               Q.       Do you live in Arlington?

25               A.       No.

1 Q. Where do you live?

2 Just the city and town -- and  
3 state, sorry.

4 A. Alexandria, Virginia.

5 Q. How long have you been working  
6 at the DEA?

7 A. This past June was 25 years.

8 Q. And I understand you currently  
9 work in the diversion control division of the  
10 DEA.

11 How long have you worked in  
12 diversion control?

13 A. For 25 years.

14 Q. What is diversion? Can you  
15 give us a simple explanation of it?

16 A. Well, our mission is to  
17 prevent, detect and investigate, to ensure  
18 that there's -- while protecting -- so  
19 protect form diversion. So we're trying to  
20 keep controlled -- legitimate controlled  
21 substances and chemicals going into the  
22 illegitimate market.

23 Q. One of the mission statements  
24 of the DEA, correct?

25 A. Correct.

1           Q.       Is another mission statement of  
2     the DEA is that you want to ensure that  
3     there's an adequate, uninterrupted supply of  
4     controlled substances like opioid medications  
5     to be available for legitimate medical uses?

6           A.       Yes.

7           Q.       Is it fair to say that you have  
8     knowledge, experience and training carrying  
9     out DEA's diversion control mission?

10          A.       Yes.

11                   MR. JACO:  Objection.  Form.

12     QUESTIONS BY MS. SWIFT:

13          Q.       Is it fair to say you have  
14     decades of experience in doing that?

15                   MR. JACO:  Objection.  Form.

16                   You can answer.

17     QUESTIONS BY MS. SWIFT:

18          Q.       Well, let me try to address  
19     your counsel's objection, Ms. Brennan.

20                   You testified that you've  
21     worked in diversion control at the DEA for  
22     25 years.

23                   Is it fair to say that you have  
24     a long period of experience working to  
25     prevent diversion?

1 A. Yes.

2 Q. Do you have training in  
3 preventing diversion?

4 A. Yes.

5 Q. Is it your job to ensure that  
6 the diversion control division's objectives  
7 are met and to act as a liaison with DEA  
8 registrants like distributors to prevent the  
9 diversion of controlled substances?

10 MR. JACO: Objection. Form.

11 You can answer.

12 THE WITNESS: Yes, my job right  
13 now is to liaison with registrants and  
14 associations and making them aware of  
15 the regulations.

16 QUESTIONS BY MS. SWIFT:

17 Q. When you say "registrants,"  
18 that's just a word to describe companies like  
19 distributors who are registered with the DEA;  
20 is that fair?

21 A. Yes.

22 Q. In your time at the DEA, have  
23 you worked as a diversion investigator?

24 A. Yes.

25 Q. Have you overseen other

1 diversion investigators while you've been at  
2 the DEA?

3 A. Yes.

4 Q. And have you had the occasion  
5 to interact with diversion investigators at  
6 the DEA?

7 A. Yes.

8 Q. What is a diversion  
9 investigator?

10 A. A diversion investigator is  
11 when -- we're considered non-law enforcement,  
12 but we investigate -- and our job is to work  
13 with the registrant population to ensure that  
14 there is -- you know, hold them -- with the  
15 regulations and try and prevent diversion.

16 Q. You understand that diversion  
17 investigators conduct regular investigations  
18 of companies that are registered with the DEA  
19 to distribute controlled substances such as  
20 opioids, right?

21 MR. JACO: Objection. Form.

22 You can answer.

23 THE WITNESS: I'm sorry, you  
24 just cut out at the very end --

25

1 QUESTIONS BY MS. SWIFT:

2 Q. Sure.

3 A. -- Ms. Swift.

4 Q. Diversion investigators, you  
5 know, in the course of their job, they  
6 conduct investigations of companies that  
7 distribute controlled substances like  
8 opioids.

9 That's what they do, right?

10 A. That's one of the duties.

11 MR. JACO: Same -- same  
12 objection.

13 QUESTIONS BY MS. SWIFT:

14 Q. When a diversion investigator  
15 conducts an investigation of a distributor  
16 like Walgreens, they actually go to the  
17 warehouses, the distribution centers, and  
18 walk around, right? That's part of what they  
19 do?

20 MR. JACO: Objection. Form.

21 You can answer.

22 THE WITNESS: Yes, that would  
23 be considered on-site.

24 QUESTIONS BY MS. SWIFT:

25 Q. And the goal when you're doing

1 an on-site investigation is to make sure --  
2 well, a lot of things, but, for example, that  
3 the distributors -- the controlled substances  
4 that that distributor has in its warehouse or  
5 its distribution center, that they're  
6 being -- those controlled substances are  
7 being stored correctly; is that fair? It's  
8 one of the things that they do?

9 A. Yes.

10 Q. The diversion investigators  
11 also look to see whether alarm systems are  
12 working, correct?

13 A. Yes.

14 Q. They look to see whether  
15 controlled substances like opioids are either  
16 in a vault or in a cage or, you know, they're  
17 being stored the way they are required to be  
18 stored under the DEA's regulations; is that  
19 fair?

20 MR. JACO: Objection. Form.

21 THE WITNESS: Yes.

22 QUESTIONS BY MS. SWIFT:

23 Q. The diversion investigators  
24 also make sure that records are being kept  
25 properly when they conduct an on-site

1 investigation, correct?

2 A. Yes.

3 Q. The DEA has rules and  
4 requirements on all of those aspects of how a  
5 distributor stores its controlled substances,  
6 keep records about them, maintains alarm  
7 systems about them; is that fair?

8 MR. JACO: Objection. Form.

9 You can answer.

10 THE WITNESS: Yes.

11 QUESTIONS BY MS. SWIFT:

12 Q. Would you agree with me,  
13 Ms. Brennan, that there are a lot of  
14 different things that a diversion  
15 investigator is supposed to check in the  
16 course of an on-site investigation of a  
17 controlled substance distributor?

18 MR. JACO: Objection. Form.

19 THE WITNESS: Yes, we look at a  
20 multitude of things.

21 QUESTIONS BY MS. SWIFT:

22 Q. Diversion investigators at the  
23 DEA conduct on-site investigations of all  
24 distributors as part of DEA's regulatory  
25 role, right?

1 MR. JACO: Objection. Form.

2 THE WITNESS: Yes, we're

3 required to look at -- investigate

4 distributors on site.

5 QUESTIONS BY MS. SWIFT:

6 Q. And that's not a sign that a

7 company is necessarily doing anything wrong.

8 Everybody gets investigated whether they're

9 doing anything wrong or not, fair?

10 A. Yes.

11 Q. Would you agree with me that

12 it's important -- strike that.

13 Would you agree that the

14 on-site investigations that diversion

15 investigators conduct are important so that

16 the DEA can make sure distributors are

17 complying with the laws and regulations?

18 MR. JACO: Objection. Form.

19 THE WITNESS: Yes, I would

20 agree that it's for all registrants.

21 QUESTIONS BY MS. SWIFT:

22 Q. Would you agree with me that

23 on-site investigations of distributors are

24 also important to fulfill DEA's mission of

25 preventing diversion?

1 MR. JACO: Objection. Form.

2 THE WITNESS: Yes, I'd agree  
3 that they're one of the registrants --  
4 that's part of the mission.

5 QUESTIONS BY MS. SWIFT:

6 Q. Do the diversion investigators  
7 that you know take that job seriously?

8 A. Yes.

9 Q. Do you, as a diversion  
10 investigator, take the job of conducting  
11 on-site investigations seriously?

12 A. Yes.

13 Q. To your understanding, do  
14 diversion investigators at the DEA do a  
15 careful and thorough job when conducting  
16 investigations?

17 A. We're trained to do a thorough  
18 job. I can't say, you know -- I don't  
19 speak -- at DEA, that's what we're trained to  
20 do.

21 Q. And do you believe that the  
22 diversion investigators that you have worked  
23 with over the years do, in fact, do a  
24 careful, thorough job?

25 A. I do believe that for the --

1     yes.

2             Q.       Do you believe that the  
3     diversion investigators at the DEA do a  
4     careful, thorough job when documenting their  
5     findings during investigations?

6             A.       DEA expects that an  
7     investigation would be documented.

8             Q.       When a diversion investigator  
9     finds a problem at a distribution center, do  
10    they document it, typically?

11            MR. JACO:  Objection.  Form.

12            THE WITNESS:  Typically the  
13    problem would be documented.

14    QUESTIONS BY MS. SWIFT:

15            Q.       And if a diversion investigator  
16    sees a violation of the laws and regulations,  
17    is it typical for the diversion investigator  
18    to document that as a part of an  
19    investigation?

20            MR. JACO:  Objection.  Form.

21            THE WITNESS:  Yes, it's typical  
22    that a violation would be documented.

23                    (Brennan 30(b)(6) Exhibit 20  
24    marked for identification.)  
25

1 QUESTIONS BY MS. SWIFT:

2 Q. Now, I'd like for you to look  
3 in your binder, if you would, please,  
4 Ms. Brennan, for Exhibit 20.

5 Do you have that in front of  
6 you?

7 A. Yes.

8 Q. Exhibit 20 is a letter from the  
9 US Department of Justice addressed to a law  
10 firm in Florida with the subject line "Touhy  
11 requests re: DEA 30(b)(6)," and the in re:  
12 National Prescription Opiate Litigation case,  
13 correct?

14 A. That's correct.

15 Q. Have you seen this letter  
16 before?

17 A. Yes, I have.

18 Q. And do you know what a Touhy  
19 request is?

20 Let me ask it a different way.  
21 I'll withdraw the question.

22 Do you understand that you have  
23 been authorized on behalf of the DEA to  
24 testify about certain topics and documents  
25 today?

1 A. Yes.

2 Q. Do you understand that those  
3 topics are listed on page 2 of this letter?

4 A. Yes.

5 Q. And then the specific documents  
6 that you've been authorized to testify about  
7 are listed on the last page of the exhibit,  
8 this Attachment A, correct?

9 A. Yes.

10 Q. Okay. Turn back to page 2 of  
11 the Touhy letter, if you would, please.

12 Do you see in the first full  
13 paragraph that starts, "The DEA has been  
14 contacted"?

15 Do you see that paragraph?

16 A. Yes.

17 Q. Towards the end of that  
18 paragraph it says, "I am authorizing DEA  
19 section chief Claire Brennan to provide  
20 deposition testimony as a 30(b)(6) witness on  
21 behalf of DEA regarding the following  
22 topics."

23 And the first topic is "the  
24 responsibilities of diversion investigators  
25 when performing cyclic investigations of

1 pharmacy distribution centers."

2 Did I read that correctly?

3 A. Yes.

4 Q. Are you qualified to testify on  
5 that topic based on your knowledge, training,  
6 experience at the DEA?

7 A. Yes.

8 Q. What is a pharmacy distribution  
9 center?

10 A. It would be a distri -- a  
11 distribution center who sells products to  
12 pharmacies.

13 Q. And what is a cyclic  
14 investigation?

15 A. That would be what we  
16 considered cyclic or scheduled  
17 investigations, when we go out every so many  
18 years to -- to a registrant.

19 Q. And when you say "when we go  
20 out every so many years to a registrant," you  
21 mean an investigation like what we were  
22 discussing a few moments ago?

23 A. Yes.

24 MR. JACO: Objection.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. And when you say "go out every  
3 so many years to a registrant," you mean the  
4 diversion investigator's actually going to  
5 the distribution center and conducting an  
6 investigation to make sure they're following  
7 the laws, fair?

8 MR. JACO: Objection. Form.  
9 You can answer.

10 THE WITNESS: Yes.

11 QUESTIONS BY MS. SWIFT:

12 Q. And I believe you already  
13 testified that the purpose of the cyclic  
14 investigations that DEA conducts is to make  
15 sure that distributors are following DEA  
16 regulations in distributing controlled  
17 substances such as opioids; is that fair?

18 A. Yes.

19 Q. Is it standard operating  
20 procedure at the DEA for the diversion  
21 investigator to create a report of the cyclic  
22 investigations they conduct?

23 A. It's a requirement, yes.

24 Q. Do DEA's investigation reports  
25 typically follow a standard format?

1           A.       Yes.

2           Q.       The DEA's investigation reports  
3       typically address a standard set of issues to  
4       make sure the DEA investigator is covering  
5       each of those issues in the investigation; is  
6       that fair?

7                   MR. JACO:  Objection.  Form.

8                   You can answer.

9                   THE WITNESS:  Yes.

10       QUESTIONS BY MS. SWIFT:

11           Q.       Is it a DEA requirement that  
12       DEA investigators document certain things  
13       when they conduct their investigations?

14           A.       Yes, we have -- that's part of  
15       the standard format.

16           Q.       Is one of the goals of the  
17       DEA's investigations to try to make sure that  
18       pharmacy distributors are following DEA  
19       regulations to the letter?

20           A.       It would be to ensure that  
21       they're following the regulations.

22           Q.       And DEA wants distributors to  
23       do that -- DEA wants distributors to dot  
24       every I and cross every T when it comes to  
25       following those regulations, right?

1 MR. JACO: Objection. Form.

2 THE WITNESS: Well, DEA -- the  
3 regulation -- DEA expects the  
4 registrants to follow the regulations  
5 that pertain to them.

6 QUESTIONS BY MS. SWIFT:

7 Q. Does DEA expect distributor  
8 registrants to be in perfect compliance with  
9 DEA regulations?

10 A. DEA expects that all  
11 registrants should be in compliance with the  
12 regulations.

13 Q. Would you agree with me that no  
14 distributor is perfect?

15 MR. JACO: Objection. Form.

16 THE WITNESS: I wouldn't agree  
17 that that's the correct saying. I  
18 think it depends on what the  
19 investigation shows, if they're -- if  
20 there are any violations or not.

21 QUESTIONS BY MS. SWIFT:

22 Q. Would you agree with me that  
23 when DEA conducts investigations of  
24 distributors, there are often small  
25 violations identified?

1 MR. JACO: Objection. Form.

2 THE WITNESS: Without

3 knowing -- without seeing every single

4 investigation, it's hard to say.

5 QUESTIONS BY MS. SWIFT:

6 Q. Is it fair to say that the

7 diversion investigator is going to document

8 violations discovered during an investigation

9 whether they're big or small?

10 MR. JACO: Objection. Form.

11 THE WITNESS: The expectation

12 of DEA would be that.

13 QUESTIONS BY MS. SWIFT:

14 Q. And sometimes the violations

15 that a diversion investigator identifies

16 during an investigation involves things like

17 records not being filled out exactly the

18 right way; is that fair?

19 MR. JACO: Objection. Form.

20 THE WITNESS: Yes.

21 QUESTIONS BY MS. SWIFT:

22 Q. When that happens, the

23 investigator documents it, right?

24 A. That would be DEA's

25 expectation.

1 Q. And certainly if an  
2 investigator identifies a large violation,  
3 that's going to be documented as well?

4 MR. JACO: Objection. Form.

5 THE WITNESS: A violation is a  
6 violation.

7 QUESTIONS BY MS. SWIFT:

8 Q. One of the things that DEA  
9 regulations require distributors to do is to  
10 monitor and report suspicious orders, right?

11 A. I'm sorry, can you just repeat  
12 that?

13 Q. Sure.

14 One of the things that the DEA  
15 regulations require distributors to do is to  
16 monitor and report suspicious orders.

17 Is that a true statement?

18 A. Yes.

19 Q. The DEA defines -- well, let me  
20 ask this question: Do you know how the DEA  
21 defines suspicious order?

22 A. Well, the DEA -- the  
23 regulations say that a registrant has to come  
24 up -- figure out their own system to operate  
25 and -- but they define a suspicious order to

1 include unusual size, frequency or deviating  
2 substantially from a normal pattern.

3 Q. So if a pharmacy orders an  
4 unusually large amount of oxycodone, for  
5 example, from its distributor, depending on  
6 the circumstances, that order might be deemed  
7 suspicious; is that fair?

8 MR. JACO: Objection. Form.  
9 Incomplete hypothetical.

10 THE WITNESS: It would be on  
11 the distributor to decide that.

12 QUESTIONS BY MS. SWIFT:

13 Q. If the distributor decided that  
14 that order was suspicious, it would -- it  
15 would at least potentially need to be  
16 reported to the DEA.

17 Is that a fair statement?

18 MR. JACO: Objection. Form.

19 THE WITNESS: Yes, it should be  
20 reported to DEA.

21 QUESTIONS BY MS. SWIFT:

22 Q. Many of the -- well, let me  
23 take a step back to Exhibit 20, which is the  
24 Touhy letter that we talked about a minute  
25 ago.

1                   The documents that are listed  
2    in Attachment A, most of those are  
3    investigation reports of Walgreens  
4    distribution centers, correct?

5           A.       Yes.

6           Q.       Many of those investigation  
7    reports -- well, strike that.

8                   Did you review each of those  
9    Walgreens investigation reports in  
10   preparation for your deposition?

11          A.       Yes.

12          Q.       Many of those Walgreens  
13    investigation reports that DEA conducted  
14    mentioned suspicious order monitoring and  
15    reporting, correct?

16                   MR. JACO:  Objection.  Form.

17                   THE WITNESS:  Yes.

18   QUESTIONS BY MS. SWIFT:

19          Q.       The DEA looks at a  
20    distributor's suspicious order monitoring and  
21    reporting when it investigates that  
22    distributor's facilities, right?

23                   MR. JACO:  Objection.  Form.

24                   THE WITNESS:  The investigator  
25                   would ask the facility what they had

1 in place, what system.

2 QUESTIONS BY MS. SWIFT:

3 Q. And for the good of the public,  
4 DEA wants to make sure that distributors are  
5 complying with the rules on suspicious order  
6 monitoring and reporting, correct?

7 MR. JACO: Objection. Form.

8 THE WITNESS: It's a  
9 requirement of the federal regulations  
10 that they do that.

11 QUESTIONS BY MS. SWIFT:

12 Q. To do that, do the diversion  
13 investigators do things like talk to the  
14 company's managers?

15 A. Diversion investigators would  
16 talk with whoever they needed to, whomever  
17 they needed to at the company, to answer  
18 specific questions.

19 Q. The diversion investigators  
20 would also look at documents, whatever  
21 documents they needed to, to answer their  
22 questions?

23 MR. JACO: Objection. Form.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. Diversion investigators might  
3 also look at data to determine whether a  
4 distributor has an effective suspicious order  
5 monitoring system in place; is that fair?

6 MR. JACO: Objection. Form.

7 THE WITNESS: It would  
8 really -- it would depend on the  
9 company and what they were providing,  
10 what they were offering as -- as to  
11 show what system they had in place.

12 QUESTIONS BY MS. SWIFT:

13 Q. Is it fair to say that ensuring  
14 a distributor has an effective suspicious  
15 order monitoring in place is not something  
16 that the DEA is going to overlook?

17 MR. JACO: Objection. Form.

18 THE WITNESS: The diversion  
19 investigator is trained to ensure that  
20 the company had a system in place for  
21 detecting suspicious orders and  
22 thereby preventing diversion.

23 QUESTIONS BY MS. SWIFT:

24 Q. If the investigator concludes  
25 that a distributor is not complying with the

1 rules on suspicious order monitoring, the DEA  
2 tells the distributor that, right?

3 MR. JACO: Objection. Form.

4 THE WITNESS: If there was no  
5 system in place, yes.

6 QUESTIONS BY MS. SWIFT:

7 Q. What if there was a system in  
8 place but the investigator didn't think it  
9 was good enough; the investigator would tell  
10 the distributor that, right?

11 MR. JACO: Objection. Form.

12 THE WITNESS: No. The  
13 investigator is trained to -- to  
14 ensure that there is a system in place  
15 as required by the regulations. The  
16 investigator's also trained not to  
17 approve nor disapprove the system.

18 QUESTIONS BY MS. SWIFT:

19 Q. The DEA's investigators, at  
20 certain points in time, have asked  
21 distributors to change their suspicious order  
22 monitoring systems if they didn't think they  
23 were sufficient, correct?

24 MR. JACO: Objection. Form.

25 THE WITNESS: Again, only -- a

1 diversion investigator is trained not  
2 to comment on a system. Only the  
3 registrant knows their customers, and  
4 they're the ones that are required to  
5 know whether their system is  
6 sufficient to detect suspicious  
7 orders.

8 QUESTIONS BY MS. SWIFT:

9 Q. If you had an issue with a  
10 distributor's suspicious order monitoring  
11 system, the DEA might send that distributor  
12 something called a letter of admonition,  
13 right?

14 MR. JACO: Objection. Form.

15 THE WITNESS: If there was --  
16 if there was something, clearly they  
17 are not having one, yes.

18 QUESTIONS BY MS. SWIFT:

19 Q. What is a letter of admonition?

20 A. That is like what we would  
21 consider like an administrative follow-up,  
22 one of -- we have some administrative tools;  
23 that's one of them. And what it does is it  
24 formalizes violations found in the cyclic  
25 investigation, and then it points out the

1 specific violations of the regulations.

2 And then they -- the registrant  
3 has usually about 30 days to respond in  
4 writing to DEA as to how they're going to  
5 correct those violations.

6 Q. Is a letter of admonition a  
7 relatively standard way to ask a distributor  
8 to fix a violation the DEA has identified?

9 A. That -- that is one of the --  
10 one of the tools, and it's usually --  
11 probably is a little bit more common, but,  
12 yes.

13 Q. Is it fair to say that often  
14 letters of admonition from the DEA lead to no  
15 further action?

16 MR. JACO: Objection. Form.

17 THE WITNESS: That's the goal.

18 I can't say for sure whether that's  
19 what happens.

20 QUESTIONS BY MS. SWIFT:

21 Q. You mentioned a couple of times  
22 that letters of admonition, that it's one of  
23 the tools the DEA has for trying to get  
24 distributors to fix violations.

25 What are other tools the DEA

1 has to do that?

2 A. There's also memorandums of  
3 agreement, civil fines, hearings,  
4 administrative hearings.

5 Q. Are all of those things that  
6 you just mentioned, those other tools, more  
7 serious than a letter of admonition?

8 A. They're usually considered like  
9 a next step.

10 Q. Is an order to show cause  
11 another tool that the DEA has to try to get  
12 distributors to fix violations?

13 A. I'm sorry, can you repeat that?

14 Q. Sure.

15 Are you familiar with the term  
16 "order to show cause"?

17 A. Yes.

18 Q. And is an order to show cause,  
19 is that another tool that the DEA has to  
20 ensure that registrants are following DEA  
21 regulations?

22 A. Yes, an order to show cause  
23 would also be an administrative option.

24 Q. Is an order to show cause  
25 another, like, more -- you referred to the

1 other tools, the memorandums of agreement,  
2 civil fines, administrative hearings, as next  
3 steps after a letter of admonition.

4 Would you include orders to  
5 show cause in that same category?

6 MR. JACO: Objection. Form.

7 THE WITNESS: Yeah, I think my  
8 next step was probably a poor choice.  
9 Sorry.

10 Any of these tools could be  
11 used. It doesn't have to be -- it  
12 depends on the severity of the  
13 violations. So a letter of admonition  
14 isn't always necessarily first.

15 So when I meant next, you know,  
16 they're all tools, so there's not  
17 really any right order for them. It  
18 depends on the severity of the  
19 violation.

20 QUESTIONS BY MS. SWIFT:

21 Q. Would you agree with me that  
22 the DEA typically uses letters of admonition  
23 for less severe violations?

24 MR. JACO: Objection. Form.

25 THE WITNESS: I don't think --

1           a violation is a violation. We don't  
2           really discuss less severe and more  
3           severe.

4   QUESTIONS BY MS. SWIFT:

5           Q.       Okay. Turning back to  
6   Exhibit 20, the Touhy letter we were talking  
7   about a minute ago, Topic 2 that is listed in  
8   Exhibit 20 is -- on page 2 is the specific  
9   cyclic investigation reports and related  
10   documents identified in Attachment A,  
11   correct?

12          A.       Yes.

13          Q.       And we spoke about the -- that  
14   list of documents a minute ago. And I  
15   believe you testified that the documents --  
16   that most of these documents are Walgreens  
17   investigation reports put together by the  
18   DEA, right?

19          A.       Yes, those were the ones that I  
20   reviewed.

21          Q.       These investigation reports  
22   involve investigations of three of Walgreens  
23   distribution centers, correct?

24          A.       Yes.

25          Q.       They're investigations of

1 distribution centers, one in Perrysburg,  
2 Ohio, one in Mount Vernon, Illinois, and one  
3 in Jupiter, Florida.

4 Is that consistent with your  
5 recollection of the reports you reviewed?

6 A. Yes, that's consistent with my  
7 recollection.

8 Q. Do the investigation reports  
9 that you reviewed for your deposition follow  
10 the standard format for DEA's cyclic  
11 investigation?

12 A. Yes.

13 Q. Is it your understanding, based  
14 on your experience as a diversion  
15 investigator, that those investigation  
16 reports of the Walgreens distribution centers  
17 were prepared in the ordinary course of  
18 business?

19 A. It looks like they were  
20 prepared after going on site for a cyclic  
21 investigation.

22 Q. Is it your understanding that  
23 those reports were prepared by the  
24 investigators who conducted those  
25 investigations?

1           A.       Yes, that would be my  
2     understanding.

3           Q.       Okay. Before the deposition  
4     got started, we talked about a handful of  
5     documents that your lawyer -- well, strike  
6     that.

7                   Mr. Jaco is -- I don't want to  
8     say with you.

9                   Is Mr. Jaco representing you  
10    for your deposition today? Is he your  
11    lawyer?

12          A.       He's representing not me  
13    personally, but on behalf of DEA.

14          Q.       Okay. Got it.

15                   We talked about the exhibits  
16    that Mr. Jaco sent to us on Wednesday that  
17    you don't have in your binder but that you  
18    have electronically.

19                   Do you recall that?

20          A.       Yes.

21                   (Brennan 30(b)(6) Exhibit 24  
22    marked for identification.)

23    QUESTIONS BY MS. SWIFT:

24          Q.       I'm going to ask you about one  
25    of them. It's Exhibit 24.

1 Do you have it?

2 A. You want me to open that up  
3 now?

4 Q. Please.

5 Just let me know when you've  
6 got it open.

7 A. Okay. I have it open.

8 Q. Okay. Just to make sure we're  
9 literally on --

10 MR. MOUGEY: Kate, will you  
11 hold on one second? It's Peter  
12 Mougey. I just want to -- I'm  
13 tracking down the docs.

14 When you say 24, Kate, would  
15 you give us the Bates numbers to make  
16 sure we're using the same one you're  
17 using?

18 MS. SWIFT: Sure thing, Peter.  
19 It's US-DEA-00056902.

20 MR. MOUGEY: Thank you.

21 MS. SWIFT: Yeah.

22 QUESTIONS BY MS. SWIFT:

23 Q. And just to make sure we're all  
24 on the same page, Ms. Brennan, is your  
25 Exhibit 24 a 14-page document with the date

1       October 27, 2009, on the top of it?

2               A.       Yes.

3               Q.       Did you review this document in  
4       preparing for your deposition today?

5               A.       Yes.

6               Q.       Did Exhibit 24 help educate you  
7       on the responsibilities of diversion  
8       investigators when performing cyclic  
9       investigations?

10              A.       It reinforced the -- what we --  
11       what we were taught, yes.

12              Q.       The subject line of Exhibit 24  
13       is "interim policy for scheduled  
14       investigations," correct?

15              A.       Yes.

16              Q.       Then if you'll look with me at  
17       the first paragraph of the memo, it says,  
18       "The Office of Diversion Control is in the  
19       process of rewriting the diversion manual,  
20       the purpose of which is to refocus efforts  
21       within the program to ensure continued  
22       compliance among the registrant population."

23                      Correct?

24              A.       Yes.

25              Q.       What is the diversion manual?

1           A.       It's the manual for diversion  
2     investigators, and it's used as a training  
3     tool and -- with a lot of information about  
4     the program and investigations and things  
5     like that in there.

6           Q.       The second paragraph of this  
7     October 27, 2009 memo says, "Until such time  
8     as the manual is finalized, the attached  
9     interim guidelines will be implemented."

10                   Correct?

11           A.       Yes.

12           Q.       Is it your understanding that  
13     these guidelines were implemented in October  
14     of 2009?

15           A.       Well, it's my understanding  
16     this is when it was documented and signed.

17           Q.       This memo that we're talking  
18     about says in the first page that it's from  
19     Joseph T. Rannazzisi, Deputy Assistant  
20     Administrator, Office of Diversion Control,  
21     correct?

22           A.       Yes.

23           Q.       Did Mr. Rannazzisi periodically  
24     send out interim guidelines like this?

25           A.       Yes.

1           Q.       Did DEA issue interim  
2   guidelines like this in order to spell out  
3   things that may not have been clear in the  
4   diversion manual?

5           A.       No, we usually just gave me  
6   some new directives or added some things.

7           Q.       I'm sorry, what was the last  
8   thing you said?

9           A.       It usually gave some new  
10   directives.

11          Q.       Did interim guidelines like  
12   this tend to give new directives that were  
13   not included in the diversion manual?

14          A.       More so they just updated  
15   guidelines.

16          Q.       When was the new diversion  
17   manual finalized?

18                    The first paragraph says that  
19   they're in the process of rewriting it.

20                    Do you know when it was  
21   finalized?

22          A.       No, I don't.

23          Q.       Take a look at the next page of  
24   Exhibit 24. It says Attachment 1.

25                    Do you see that?

1           A.       Yes.

2           Q.       And the first bullet says,

3       "Automation of reports and consolidated

4       orders system, ARCOS, analysis."

5                    Right?

6           A.       Yes.

7           Q.       It says, "A complete and

8       detailed ARCOS analysis will be conducted on

9       every registrant engaged in ARCOS-reportable

10       activity during each scheduled

11       investigation."

12                    Right?

13          A.       Yes.

14          Q.       Then it says, "Prior to the

15       on-site portion of an investigation,

16       diversion investigators must access and

17       review ARCOS status and transaction activity

18       as follows."

19                    Correct?

20          A.       Yes.

21          Q.       Was that a new directive in

22       October of 2009?

23          A.       No. We were -- diversion

24       investigators were trained already to look at

25       ARCOS.

1           Q.       So what is there -- what was  
2     the purpose of this first bullet if diversion  
3     investigators were already trained to do  
4     ARCOS reports before an on-site  
5     investigation?

6           A.       It really just reinforced it.

7           Q.       Was it to make sure the  
8     diversion investigators were actually doing  
9     those ARCOS reports before their  
10    investigations?

11          A.       I'm not sure of exactly  
12    Mr. Rannazzisi's intent, but it did reinforce  
13    that.

14          Q.       All right. Take a look at --  
15    well, before we look at the next page, after  
16    that -- well, strike that.

17                   What is ARCOS?

18          A.       So as it stands for, the  
19    Automation Reports Consolidated Order  
20    Systems, it's a requirement for manufacturers  
21    and distributors to report all Schedule II --  
22    IIs and III narcotic sales, and then  
23    manufacturers, there's a couple of extra  
24    requirements in there for, I think,  
25    psychotropic drugs and GHB.

1           Q.       So every Schedule II or  
2       Schedule III controlled substance a  
3       distributor distributes, they have to report  
4       that to the DEA?

5                   MR. JACO:  Objection.  Form.

6                   THE WITNESS:  Every Schedule II  
7                   and Schedule III narcotic controlled  
8                   substance.

9       QUESTIONS BY MS. SWIFT:

10          Q.       Every Schedule II and  
11       Schedule III narcotic controlled substance  
12       that a distributor sells, they have to report  
13       to the DEA's ARCOS system.

14                   Is that a fair statement?

15                   MR. JACO:  Objection.  Form.

16                   THE WITNESS:  Yes.

17       QUESTIONS BY MS. SWIFT:

18          Q.       Then after that first paragraph  
19       that we just talked about, the rest of that  
20       page is blacked out, correct?

21          A.       Yes.

22          Q.       Do you know whether that was  
23       done by the lawyers or somebody else?

24                   MR. JACO:  Objection.

25                   You can answer, if you know.

1 THE WITNESS: I believe it was  
2 the lawyers.

3 QUESTIONS BY MS. SWIFT:

4 Q. On the next page of Exhibit 24,  
5 we see a bullet that says, "Request for  
6 validation of ARCOS data."

7 Correct?

8 A. Yes.

9 Q. It says, "All ARCOS data to be  
10 used in the course of the investigation is  
11 required to be validated by ODPT prior to the  
12 on-site portion of the investigation."

13 Correct?

14 A. Yes.

15 Q. What does ODPT stand for?

16 A. I'm not sure exactly. They  
17 change up the synonyms for the department,  
18 but I believe that was our targeting unit in  
19 the Office of Diversion Control at the time.

20 Q. Was this a new directive in  
21 October of 2009?

22 A. To be validated, my  
23 recollection, I believe it was.

24 Q. The next bullet that we can see  
25 says, "Drug theft and loss, DTL, data."

1 Correct?

2 A. Yes.

3 Q. What is DTL?

4 A. That would be drug theft and  
5 loss.

6 Q. Okay. "Investigators will  
7 check drug theft and loss data, DEA forms  
8 106, online via the DTL database prior to the  
9 on-site visit and determine if there are  
10 unexplained losses or any pattern involving  
11 theft or loss."

12 Was that a new directive in  
13 October of 2009?

14 A. I don't believe so.

15 Q. The next bullet says memoranda  
16 of agreement, or MOA, and it reads, "The  
17 investigator will ascertain whether the  
18 subject firm's registration is currently  
19 under a memorandum of agreement, either as an  
20 individual registrant or as part of a larger  
21 corporation that has entered into an MOA."

22 Correct?

23 A. Yes.

24 Q. Then it says, "If so, the  
25 investigator will thoroughly review the

1 details and conditions of the MOA prior to  
2 the on-site portion of the investigation."

3 Correct?

4 A. Correct.

5 Q. Was that a new directive in  
6 October of 2009?

7 A. No, I don't believe so. It  
8 just reiterated it, brought it up -- you  
9 know, just reiterated if it was under an MOA.

10 Q. What is an MOA, a memorandum of  
11 agreement?

12 A. That would be after violations  
13 are found, that DEA enters into this  
14 memorandum. And the idea is that both  
15 parties have agreed, and the registrant  
16 agrees to what DEA is asking them to do after  
17 the violations were found to keep them in  
18 compliance.

19 Q. What this is saying is that if  
20 there -- a company has a memorandum of  
21 agreement with the DEA, it's the  
22 investigator's job to thoroughly review the  
23 details and conditions of that agreement as  
24 part of the investigation, correct?

25 A. That's correct.

1 Q. The next bullet says

2 "Suspicious order reporting."

3 Correct?

4 A. Yes.

5 Q. And it says, "OD, in  
6 conjunction with CCD, has notified in writing  
7 all distributors of their responsibility to  
8 immediately report all suspicious orders."

9 Correct?

10 A. Yes.

11 Q. What is OD?

12 A. That would have been Office of  
13 Diversion.

14 Q. And what is CCD?

15 A. That would be our chief counsel  
16 for diversion.

17 Q. It goes on to say, "A  
18 suspicious order is an order which, when  
19 received by a registrant and in accordance  
20 with 21 CFR 1301.74, the registrant  
21 determines to be suspicious."

22 Correct?

23 A. Yes.

24 Q. Then it says, "The registrant  
25 does not fill the order but reports same to

1     their local DEA office. Excessive purchase  
2     reports from registrant, reports of unusual  
3     sales, will no longer be accepted by the DEA.  
4     Any firm still reporting excessive purchases  
5     will be informed of the OD directive and  
6     instructed to immediately report suspicious  
7     order."

8                     Correct?

9             A.     Yes.

10            Q.     Were excessive purchase reports  
11     from registrants accepted prior to this  
12     period in time?

13            A.     They were accepted, but they  
14     were not part of the, you know, obligation to  
15     detect a system of a suspicious order.

16            Q.     Was it incumbent upon diversion  
17     investigators prior to this time in October  
18     of 2009 to make sure that registrants were  
19     complying with the suspicious order reporting  
20     rules and regulations?

21            A.     That was one of the regulations  
22     that DEA -- that diversion investigators are  
23     trained to make sure that registrants are in  
24     compliance with.

25            Q.     Did the diversion investigators

1 at the DEA follow this guidance that we see  
2 here on page 2 of Exhibit 24 with respect to  
3 instructing registrants on how to report  
4 suspicious orders?

5 MR. JACO: Objection. Form.

6 THE WITNESS: That would have  
7 been the expectation.

8 QUESTIONS BY MS. SWIFT:

9 Q. Do you know whether --

10 A. About not accepting -- sorry.  
11 I was just going to say the expectation would  
12 have been to let them know to no longer  
13 accept -- you know, that they would no longer  
14 be sending excessive purchase reports if  
15 that's what they were doing.

16 Q. Do you know whether that  
17 actually happened?

18 A. No.

19 Q. Then if you turn with me to  
20 page 3 of Exhibit 24, the next bullet says  
21 "Due Diligence," correct?

22 A. Yes.

23 Q. It says, "Registrant must have  
24 established effective controls against  
25 diversion of controlled substances in

1     accordance with 21 USC 823. DEA will not  
2     approve, certify or assist registrants in  
3     conducting their due diligence  
4     responsibilities, e.g., provide lists or  
5     identify customers to whom they should or  
6     should not sell."

7                     Did the DEA do that prior to  
8     October of 2009, assist registrants in  
9     conducting due diligence?

10             A.       No.

11             Q.       It goes on to say, "It is  
12     solely incumbent upon the registrant to know  
13     their customers and the potential abuses of  
14     the controlled substance products for which  
15     they are approved. A registrant's due  
16     diligence process/program should be flexible  
17     to adapt to changing trends with respect to  
18     diversion."

19                     Did I read all of that  
20     correctly so far?

21             A.       Yes.

22             Q.       Then it says, "A thorough  
23     review of the registrant's due diligence  
24     procedures must be documented in the  
25     scheduled investigation report."

1                   Was that something that  
2   diversion investigators were supposed to do  
3   prior to 2000 -- October of 2009?

4           A.       Yeah, we were trained to look  
5   at all that stuff and how they look at their  
6   customers, but this kind of brought it out in  
7   the forefront a little bit more.

8           Q.       Do you know whether diversion  
9   investigators did conduct thorough reviews of  
10   a registrant's due diligence procedures prior  
11   to October of 2009?

12          A.       I can't say for sure.

13          Q.       You can put that one aside.

14                   All right. Now I'd like to  
15   turn to some of the reports of the Walgreens  
16   investigations that you reviewed for your  
17   deposition.

18                   Just looking at the time, we've  
19   been going not quite an hour. I'm happy to  
20   keep going, or if you'd like to take a  
21   break -- I should have said at the beginning,  
22   if you need a break at any point, please feel  
23   free to speak up. But it's up to you and  
24   your counsel. I'm happy to keep going.

25          A.       I'm fine.

1 (Brennan 30(b)(6) Exhibit 6

2 marked for identification.)

3 QUESTIONS BY MS. SWIFT:

4 Q. Turn, if you would, please, to  
5 Exhibit 6.

6 Do you have that one in front  
7 of you?

8 A. Yes.

9 Q. Exhibit 6 is a letter from the  
10 DEA to a Mr. Todd Polarolo at a Walgreens  
11 distribution center in Perrysburg, Ohio,  
12 correct?

13 MR. JACO: Objection. Form.  
14 Foundation.

15 You can answer.

16 THE WITNESS: Yes, that's what  
17 it says.

18 QUESTIONS BY MS. SWIFT:

19 Q. And you can see from the  
20 signature at the end of the letter that it's  
21 from Robert Corso, special agent in charge,  
22 Detroit field division?

23 A. That appears to be so.

24 I'd like to point out, though,  
25 that this document DEA was not able to

1 produce from its own records.

2 Q. It's one of the documents that  
3 you reviewed in preparation for your  
4 deposition today, correct?

5 A. Yes.

6 Q. Do you know Mr. Corso or  
7 Mr. Polarolo?

8 A. I do not. I know them to be,  
9 obviously from the letter, that, you know,  
10 that this is special agent in charge at the  
11 time.

12 Q. You haven't spoken to either  
13 one of them, though?

14 A. No.

15 Q. This May 17, 2006 letter, would  
16 you agree with me that this is a letter of  
17 admonition?

18 MR. JACO: Objection. Form.

19 QUESTIONS BY MS. SWIFT:

20 Q. If you know.

21 A. It appears to be.

22 Q. This letter marked as Exhibit 6  
23 from the DEA, it says in the first paragraph  
24 that "DEA completed a regulatory  
25 investigation of Walgreens in March of 2006,"

1 correct?

2 A. Yes. I'd like to point out  
3 again, though, that you said from DEA. It's  
4 not a DEA exhibit. It did not come -- be  
5 produced by DEA.

6 Q. And to be clear, when I'm  
7 saying "the letter came from DEA," what I  
8 mean is that it's a letter that was written  
9 by a DEA agent and sent to Walgreens.

10 Do you agree with that?

11 A. I agree that it was signed by a  
12 DEA agent.

13 Q. Okay. Would you agree with me  
14 that the first paragraph refers to a  
15 March 2006 DEA investigation of Walgreens'  
16 Perrysburg distribution center?

17 MR. MOUGEY: Objection. Form.  
18 You can answer.

19 THE WITNESS: Yes.

20 QUESTIONS BY MS. SWIFT:

21 Q. We, Walgreens, don't have that  
22 investigation report, and I under -- I will  
23 represent to you that my understanding is  
24 that the DOJ lawyers who helped us get ready  
25 for this deposition, meaning negotiating the

1 date and time and what you were going to be  
2 authorized to talk about, they told us that  
3 they haven't been able to find that  
4 investigation report.

5 My question for you is whether,  
6 in the course of your preparation, did you  
7 have an opportunity to look for the  
8 March 2006 investigation report of the  
9 Perrysburg distribution center?

10 A. No, I was not involved in  
11 searching for any of the records.

12 Q. Have you seen the March 2006  
13 investigation report of the Perrysburg DC?

14 A. No, I have not.

15 Q. Okay. This May 2006 letter, it  
16 says -- I'm still in the first paragraph --  
17 says that "the March 2006 investigation  
18 revealed recordkeeping inadequacies and  
19 security deficiencies."

20 Do you see that?

21 A. Yes.

22 Q. And then it says, "The  
23 discrepancies noted are as follows," and it  
24 lists ten things.

25 Right?

1 A. Yes.

2 Q. The first discrepancy  
3 identified relates to suspicious order  
4 reporting, correct?

5 A. Yes.

6 Q. That paragraph number 1 on the  
7 first page says, "The formulation utilized by  
8 the firm for reporting suspicious ordering of  
9 controlled substances was insufficient."

10 Right?

11 A. Yes.

12 Q. Then it goes on to explain the  
13 system for suspicious order reporting that  
14 Walgreens was using at that period in time,  
15 and it says it involved groupings of 25  
16 customers, based on the number of  
17 prescriptions filled by each customer, and  
18 that ultimately the firm calculated the  
19 average order per item of each controlled  
20 substance and multiplied that figure by 3.

21 Is that a fair summary?

22 MR. JACO: Objection.

23 Misstates the document.

24 QUESTIONS BY MS. SWIFT:

25 Q. If you think I misstated it,

1 please, by all means, correct me,

2 Ms. Brennan. Not my intent.

3 A. Yes. Where you said that  
4 they -- based on the number of prescriptions,  
5 it was the number of noncontrolled and  
6 controlled substance prescriptions.

7 Q. Okay. But in general what it's  
8 saying is that what Walgreens was doing in  
9 March of 2006 was grouping customers in  
10 groups of 25 based on the number of both  
11 noncontrolled and controlled substance  
12 prescriptions, and then they calculated an  
13 average order and multiplied that average  
14 number by 3.

15 Is that fair?

16 MR. JACO: Objection. Form.

17 QUESTIONS BY MS. SWIFT:

18 Q. I'm sorry, I didn't hear your  
19 answer.

20 A. That's -- that's what it  
21 appears they're describing.

22 Q. And then it says Walgreens  
23 would use that average multiplied by 3 as a  
24 base to report suspicious orders above such  
25 figure, correct?

1 A. Yes.

2 Q. That's all the letter says  
3 about Walgreens' system for reporting  
4 suspicious orders as it existed in 2006,  
5 correct?

6 A. That's what this letter is  
7 documenting. I don't --

8 Q. This 2006 DEA letter does not  
9 explain what DEA thought was wrong with  
10 Walgreens' suspicious order reporting system,  
11 correct?

12 MR. JACO: Objection. Form.

13 THE WITNESS: Based on my  
14 knowledge, the fact that it's talking  
15 about noncontrolled and then it says  
16 that it's not disclosing suspicious  
17 orders of controlled substances.

18 QUESTIONS BY MS. SWIFT:

19 Q. Next -- well, strike that.

20 Is there anything else that you  
21 believe this letter is saying, here's why DEA  
22 thinks your suspicious order monitoring  
23 system is not sufficient for controlled  
24 substance?

25 MR. JACO: Objection. Form.

1                   THE WITNESS:   Yeah, I think --  
2                   based on my opinion, they don't have a  
3                   clear system for identifying  
4                   controlled substances.

5   QUESTIONS BY MS. SWIFT:

6               Q.       It's a fact that the system  
7               included noncontrolled and controlled  
8               substance prescriptions in the calculation of  
9               the average.

10              Am I understanding you  
11              correctly?

12             A.       Yes, that would be my  
13             understanding on reading this.

14             Q.       The next paragraph says,  
15             "Section 1301.74(b) of Title 21 of the Code  
16             of Federal Regulations requires the  
17             registrant to design and operate a system to  
18             disclose to the registrant suspicious orders  
19             of controlled substances and inform DEA of  
20             suspicious orders."

21              That's the regulation we  
22              discussed earlier, correct?

23             A.       Yes.

24             Q.       And that is all this DEA letter  
25             says about what Walgreens is supposed to do

1 to monitor and report suspicious orders,  
2 correct?

3 MR. JACO: Objection. Form.

4 THE WITNESS: Yes.

5 QUESTIONS BY MS. SWIFT:

6 Q. None of the other listed  
7 Items 2 through 10 in this letter from  
8 May 2006 relate to suspicious order  
9 monitoring or suspicious order reporting of  
10 controlled substances, correct?

11 MR. JACO: Objection. Form.

12 THE WITNESS: There was -- I'm  
13 sorry, repeat the question, please.

14 QUESTIONS BY MS. SWIFT:

15 Q. Sure.

16 None of the other listed items  
17 in this letter, Items 2 through 10, none of  
18 those relate to the suspicious order  
19 monitoring or suspicious order reporting of  
20 controlled substances, right?

21 A. That's correct.

22 MR. JACO: Same objection.

23 QUESTIONS BY MS. SWIFT:

24 Q. The second item relates to a  
25 regulation with the number 1301.74(e),

1 correct?

2 A. Yes.

3 Q. And it says that Walgreens was  
4 using shipping containers that indicated they  
5 were carrying controlled substances, and  
6 that's something that a distributor is not  
7 supposed to do; is that fair?

8 MR. JACO: Objection. Form.

9 THE WITNESS: You're supposed  
10 to write "employee" -- where it says  
11 "have precautions to guard against  
12 storage or in-transit losses."

13 QUESTIONS BY MS. SWIFT:

14 Q. That doesn't have anything to  
15 do with suspicious order monitoring, right?

16 A. No, it does not.

17 MR. JACO: Objection. Form.

18 QUESTIONS BY MS. SWIFT:

19 Q. The third item in the May 2006  
20 letter is about where Walgreens stored its  
21 purchase records, correct?

22 A. That's correct.

23 Q. It says, "Such records were  
24 stored at the company's headquarters in  
25 Deerfield instead of at the registered

1 location," meaning the distribution center,  
2 right?

3 Walgreens hadn't notified DEA  
4 of its intent for central recordkeeping?

5 A. Yes, that's what that appears  
6 to be.

7 Q. Then the fourth item says that  
8 "Walgreens' biannual inventory failed to  
9 indicate whether it was taken at the  
10 beginning or close of business."

11 This literally relates to the  
12 time of day when Walgreens took its  
13 inventory; is that right?

14 A. Yes, that's correct.

15 Q. That has nothing to do with  
16 suspicious order monitoring, right?

17 MR. JACO: Objection. Form.

18 THE WITNESS: No.

19 QUESTIONS BY MS. SWIFT:

20 Q. No, it's not right or, no, it  
21 has nothing to do with suspicious order  
22 monitoring?

23 A. No, that doesn't have anything  
24 to do with suspicious order monitoring.

25 Q. The fifth item says, "Walgreens

1 inaccurately recorded a loss in transit as a  
2 distribution, leading to an accountability  
3 error."

4 That doesn't have anything to  
5 do with suspicious order monitoring either,  
6 correct?

7 MR. JACO: Objection to form.

8 THE WITNESS: Yes, that has to  
9 deal with recordkeeping.

10 QUESTIONS BY MS. SWIFT:

11 Q. And the sixth item says  
12 "Walgreens' maintenance of purchase records  
13 was inadequate and that various pieces of  
14 information were missing from the records."

15 That doesn't have anything to  
16 do with suspicious order monitoring, correct?

17 MR. JACO: Objection. Form.

18 THE WITNESS: Yes, that's  
19 correct.

20 QUESTIONS BY MS. SWIFT:

21 Q. And then Items 7 through 10 all  
22 relate to List I chemicals as opposed to  
23 controlled substances, correct?

24 A. Yes, that's correct.

25 Q. What is a List I chemical?

1           A.       List I chemicals are basically  
2   deemed to be like essential chemicals needed  
3   to produce methamphetamine and some other  
4   illegal substances.

5           Q.       Is Sudafed an example of a  
6   List I chemical?

7           A.       Pseudoephedrine, yes.

8           Q.       And I'm specifically referring  
9   to the brand name Sudafed that you can buy  
10  over the counter at the store.

11          A.       That would be one of them.

12          Q.       List I chemicals are different  
13  from controlled substances like opioids,  
14  correct?

15          A.       Yes, it's correct.

16          Q.       None of Items 7 through 10 have  
17  anything to do with suspicious order  
18  monitoring of controlled substances, correct?

19          A.       This appears that they're  
20  talking about List I chemicals on 7  
21  through 10.

22          Q.       For each of those items, these  
23  ten items in this letter, the letter  
24  identifies the regulation that DEA said  
25  Walgreens had deviated from, correct?

1           A.       Yes, it appears that way.

2           Q.       And then on page 3 of the  
3   letter it says, "This letter is formal  
4   notification," and it's towards -- towards  
5   the bottom of page 3.

6                   Are you with me?

7           A.       Yes.

8           Q.       It says, "This letter is formal  
9   notification that your failure to maintain  
10   adequate records and security for controlled  
11   substances and List I chemicals constitutes  
12   violations of the Controlled Substances Act."

13                   Correct?

14          A.       Yes.

15          Q.       Then it says, "At this time you  
16   are being afforded the opportunity to comply  
17   with the requirements of the Controlled  
18   Substances Act which were outlined by the  
19   diversion investigators with the management  
20   of your firm in March of 2006."

21                   Correct?

22          A.       Yes.

23          Q.       Does that mean that if  
24   Walgreens complies as DEA has asked it to do,  
25   that the expectation is that DEA will take no

1 further action?

2 MR. MOUGEY: Objection. Form.

3 THE WITNESS: On this specific  
4 time, I can't think they wouldn't  
5 take, but that's the opportunity for  
6 them to comply, yes.

7 QUESTIONS BY MS. SWIFT:

8 Q. When DEA takes no further  
9 action in response to a letter of admonition  
10 like this one, does that mean the DEA has  
11 concluded that the distributor has come into  
12 compliance?

13 MR. JACO: Objection. Form.

14 THE WITNESS: So if they  
15 respond satisfactorily, then that  
16 would be -- but again, this would be  
17 looked at. It's only until -- if  
18 violations are found or the next, you  
19 know, on-site.

20 QUESTIONS BY MS. SWIFT:

21 Q. Then asked Walgreens to inform  
22 DEA of actions planned or taken to correct  
23 these violations within 30 days, correct?

24 A. Yes.

25 Q. Then it says, "If you have any

1 questions, contact acting group supervisor  
2 Barbara Dobric."

3 Correct?

4 A. Yes.

5 (Brennan 30(b)(6) Exhibit 8  
6 marked for identification.)

7 QUESTIONS BY MS. SWIFT:

8 Q. All right. Now I'd like for  
9 you to turn to Exhibit 8 in your binder,  
10 please.

11 Exhibit 8 is a July 28, 2006  
12 letter to Barbara K. Dobric at the DEA from  
13 Walgreens. It looks like it's a lawyer,  
14 Dwayne Piñon.

15 Correct?

16 A. Yes.

17 Q. All right. The first paragraph  
18 of this letter to Ms. Dobric -- well, strike  
19 that.

20 July 28, 2006, this is just a  
21 couple of months after the May 2006 letter we  
22 were just looking at, correct?

23 A. Yes.

24 Q. The first paragraph of the  
25 letter to Ms. Dobric says, "In furtherance of

1     our recent telephone conversations, please  
2     accept the following responses to the issues  
3     identified during the March 2006 regulatory  
4     investigation of the above-referenced  
5     facility," and that facility is the Walgreens  
6     distribution center in Perrysburg, Ohio.

7                     Do you see that?

8             A.       Yes. And again, I'd like to  
9     point out that the DEA was not able to  
10    produce this document from its files.

11            Q.       I understand that.

12                    Are you taking issue with the  
13    fact that Walgreens sent this letter to DEA  
14    or just pointing out that you couldn't find  
15    it in your files?

16            A.       Just that it appears that this  
17    is a letter, but since it wasn't in our  
18    files, I can't say for sure that it was a  
19    response letter.

20            Q.       Okay. This letter suggests  
21    that Walgreens has already talked to  
22    Ms. Dobric on the phone about these issues,  
23    correct?

24            A.       Yes. According this letter, it  
25    makes reference to that.

1           Q.       You recall that the May 2006  
2   DEA letter we looked at specifically said if  
3   you have questions about any of this, call  
4   Ms. Dobric, right?

5           A.       Yes.

6           Q.       And then Walgreens followed up  
7   with this written response to Ms. Dobric,  
8   correct?

9           A.       That's what it appears to be,  
10   yes.

11          Q.       This is what a registrant is  
12   supposed to do in response to a letter of  
13   admonition, correct? Inform the DEA of the  
14   actions planned or taken to correct any  
15   violations identified during an  
16   investigation?

17                   MR. JACO: Objection. Form.

18                   THE WITNESS: Yes, that's the  
19                   expectation, and it is also stated in  
20                   the previous letter that we looked at.

21   QUESTIONS BY MS. SWIFT:

22          Q.       The Walgreens letter to  
23   Ms. Dobric addresses all ten discrepancies  
24   that were identified in the May 2006 DEA  
25   letter, correct?

1           A.       Yes, it appears that they did.

2           Q.       The first numbered paragraph of  
3 Walgreens' letter to Ms. Dobric has a heading  
4 "Controlled Substance Suspicious Orders,"  
5 correct?

6           A.       Yes.

7           Q.       It says, "Walgreens is  
8 currently pursuing the necessary programming  
9 to modify this formula in accordance with the  
10 voluntary formula listed in Appendix E-3 of  
11 the DEA Chemical Handler's Manual. Walgreens  
12 expects that these programming changes will  
13 be completed and implemented within the next  
14 six months."

15                   Correct?

16          A.       Yes.

17          Q.       Do you have an understanding of  
18 what Appendix E-3 of the DEA Chemical  
19 Handler's Manual is?

20          A.       Yes.

21                   (Brennan 30(b)(6) Exhibit 3  
22 marked for identification.)

23 QUESTIONS BY MS. SWIFT:

24          Q.       Turn, if you would, please,  
25 Ms. Brennan, to Exhibit 3.

1                   Exhibit 3, does it appear to  
2   you to be Appendix E-3 of DEA's Chemical  
3   Handler's Manual dated January 2004?

4           A.       Yes.

5           Q.       And the heading says,  
6   "Suspicious Order Reporting System for Use in  
7   Automated Tracking System," correct?

8           A.       Yes.

9           Q.       And then the first paragraph  
10   says that this is a voluntary formula for use  
11   by distributors to wholesale and resale  
12   levels?

13          A.       Yes.

14          Q.       The Appendix E-3 says that this  
15   formula calculates the quantity which, if  
16   exceeded in one month, may be considered  
17   excessive or suspicious and therefore require  
18   reporting to DEA, correct?

19          A.       Yes.

20          Q.       And then it walks through a  
21   five-step process for applying this formula,  
22   correct?

23          A.       Yes.

24          Q.       That process involves  
25   calculating an average order size, would you

1 agree with me?

2 MR. JACO: Objection. Form.

3 QUESTIONS BY MS. SWIFT:

4 Q. That's steps 1 through 3?

5 A. Yeah, they're definitely giving  
6 a calculation.

7 Q. And then in step 4, it talks  
8 about multiplying that average by a factor to  
9 give the maximum amount that a customer can  
10 order per month before showing up on the  
11 suspicious order report, correct?

12 A. Yes.

13 Q. It says the factor equals 3 for  
14 C-II and C-III controlled substances  
15 containing List I chemicals, and 8 for C-III,  
16 IV and V controlled substances and  
17 noncontrolled OTC products containing List I  
18 chemical items, correct?

19 A. Yes.

20 Q. Then step 5 says, "At the end  
21 of each month, a report will be transmitted  
22 to DEA, separate reports for List I and  
23 controlled substances, of all purchases of  
24 these drugs by any customer whose purchase  
25 quantities exceed the parameters above any

1 two consecutive months or in three of any  
2 moving six-month period."

3 Correct?

4 A. Yes.

5 Q. Then the final thing that  
6 Appendix E-3 of the Chemical Handler's Manual  
7 says is that "using a computer to do all of  
8 this for high-volume transaction business  
9 activities is the only viable, cost-effective  
10 methodology for the reporting of orders that  
11 may be considered excessive or suspicious,"  
12 correct?

13 A. Yes.

14 Q. This is the formula that  
15 Walgreens told DEA it was implementing for  
16 its controlled substance suspicious order  
17 monitoring in the July 2006 letter to  
18 Ms. Dobric, correct?

19 MR. JACO: Objection. Form.

20 THE WITNESS: Yes, that's what  
21 it appears they were.

22 QUESTIONS BY MS. SWIFT:

23 Q. This is the formula, the  
24 Appendix E-3 suspicious order reporting  
25 formula, this is what Walgreens told DEA it

1 was doing in response to DEA's 2006 letter of  
2 admonition saying that Walgreens' suspicious  
3 order monitoring system was insufficient,  
4 correct?

5 MR. JACO: Objection. Form.

6 THE WITNESS: That appears  
7 that's what they told DEA.

8 (Brennan 30(b)(6) Exhibit 9  
9 marked for identification.)

10 QUESTIONS BY MS. SWIFT:

11 Q. Okay. Turn, if you would,  
12 please, to Exhibit 9.

13 A. Okay.

14 Q. Is Exhibit 9 a May 18, 2009  
15 investigation report of the Perrysburg  
16 distribution center, Walgreens' Perrysburg,  
17 Ohio, distribution center?

18 A. Yes.

19 Q. You see the synopsis on page 1  
20 says, "On April 28, 2009, diversion  
21 investigators Jackie Honoway and Paula Albert  
22 initiated an in-depth regulatory  
23 investigation at Walgreen Company in  
24 Perrysburg, Ohio," and it gives the DEA  
25 registration number. "This investigation was

1 initiated in accordance with the Detroit  
2 divisional office, fiscal year regulatory  
3 work plan for 2009."

4 Did I read that basically  
5 correctly?

6 A. Yes.

7 Q. In your review for the  
8 deposition, did you conclude that this report  
9 was written according to DEA's standard  
10 format for site investigations?

11 A. I would say for the most part  
12 it followed.

13 Q. I'd like you to turn to page 5  
14 of the 2009 Perrysburg report, please.

15 You see the section that starts  
16 "firm's history with DEA"?

17 A. Yes.

18 Q. And then it provides  
19 essentially that, a history of earlier  
20 investigations, correct? And other  
21 information?

22 A. Yes.

23 MR. JACO: Objection. Form.

24 QUESTIONS BY MS. SWIFT:

25 Q. And then turn, if you would, to

1 page 6, still within the history with DEA  
2 section.

3 Do you see at the top of page 6  
4 it says, "In-depth regulatory investigation  
5 completed in February 2006. This  
6 investigation resulted in a letter of  
7 admonition, citing the following violations."  
8 And the first one listed is under "controlled  
9 substances suspicious ordering system  
10 inadequate," correct?

11 A. Yes.

12 Q. And then it also lists the  
13 other violations that were addressed in the  
14 DEA's letter of admonition and Walgreens  
15 response that we looked at earlier this  
16 morning, correct?

17 MR. JACO: Objection. Form.

18 THE WITNESS: Yes.

19 QUESTIONS BY MS. SWIFT:

20 Q. And then further down on  
21 page 6, the paragraph marked number 3 says,  
22 "In May 2006, a letter of admonition was  
23 issued for the aforementioned violations, and  
24 in a letter dated July 28, 2006, Walgreens  
25 responded to the noted violations and advised

1 that corrective measures would be taken."

2 Correct?

3 A. Yes.

4 Q. Again, that's a reference to  
5 the May 2006 letter of admonition that we  
6 just looked at and the July 28, 2006  
7 Walgreens letter to Ms. Dobric responding to  
8 that letter of admonition, correct?

9 MR. JACO: Objection. Form.

10 THE WITNESS: Yes, it would  
11 appear that that is a reference to  
12 those letters that DEA was unable to  
13 find.

14 QUESTIONS BY MS. SWIFT:

15 Q. And then if you would turn,  
16 please, to page 15. There's a section  
17 towards the bottom of page 15 that says  
18 "List I Chemicals."

19 Do you see that?

20 A. Yes.

21 Q. Again, List I chemicals are  
22 drugs like Sudafed. They're not controlled  
23 substances like opioids, right?

24 A. Correct.

25 Q. The first paragraph under that

1 heading references a Steve Kneller and says  
2 that he is the distribution center manager,  
3 correct?

4 A. Yes.

5 Q. Then if you would turn to  
6 page 16, please.

7 The paragraph marked number 3  
8 says that Mr. Kneller, Walgreens'  
9 distribution center manager, explained to the  
10 diversion investigator that Walgreens was  
11 using the Chemical Handler's Manual for  
12 List I suspicious order monitoring, correct?

13 MR. JACO: Objection. Form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MS. SWIFT:

16 Q. In the middle of that  
17 paragraph, the report notes, quote,  
18 "Suspicious orders were unable to be  
19 determined due to the lack of milligram  
20 strength of List I chemical products not  
21 being identified."

22 Correct?

23 A. Yes.

24 Q. That qualifies as a violation  
25 of the DEA rules; is that true?

1           A.       That would be according to the  
2   regulations of -- for the Chemical Handler's  
3   Manual on how to -- and for chemical handlers  
4   on how to help identify and stay in the  
5   regulations.

6           Q.       So the diversion investigator  
7   is documenting it here, right?

8           A.       Yes.

9           Q.       If you look with me, please, on  
10   page 17, do you see the section that says  
11   "Suspicious Orders" towards the bottom of the  
12   page?

13          A.       Yes.

14          Q.       It says that "Mr. Kneller also  
15   explained that Walgreens follows the Chemical  
16   Handler's Manual, Appendix 3, for determining  
17   suspicious orders of controlled substances."

18                   Do you see that?

19                   MR. JACO:  Objection.  Form.

20                   Misstates the document.

21   QUESTIONS BY MS. SWIFT:

22          Q.       Do you see where it says  
23   "controlled substances" in that first bullet?

24          A.       Yes, I see that in the first  
25   bullet.

1           Q.       Would you agree with me that  
2   Mr. Kneller is explaining here that Walgreens  
3   followed the Chemical Handler's Manual,  
4   Appendix 3, for determining suspicious orders  
5   of controlled substances?

6                   MR. JACO:  Objection.  Form.

7                   THE WITNESS:  It appears that  
8           that's what he's explaining.

9   QUESTIONS BY MS. SWIFT:

10           Q.       This DEA report does not note  
11   any problems with Walgreens using the  
12   Chemical Handler's Manual for determining  
13   suspicious orders of controlled substances,  
14   correct?

15                   MR. JACO:  Objection.  Form.

16                   THE WITNESS:  That would be in  
17           line with a diversion investigator's  
18           training, to neither approve nor  
19           disapprove, just to see that there is  
20           a system in place.

21   QUESTIONS BY MS. SWIFT:

22           Q.       On page 18, paragraph number 2,  
23   it says, "Mr. Kneller doesn't know what  
24   measures the corporate office takes to  
25   investigate suspicious orders, and that that

1 process is currently under review."

2 Correct?

3 A. Yes.

4 Q. The report does not note any  
5 issues or problems with that, correct?

6 MR. JACO: Objection. Form.

7 THE WITNESS: Yeah, they're  
8 just -- the report is stating the  
9 fact.

10 QUESTIONS BY MS. SWIFT:

11 Q. In the next paragraph,  
12 number 3, the report states, "The most  
13 current suspicious order report was received  
14 by the Detroit DO on April 6, 2009. The  
15 report listed all suspicious sales  
16 originating from the distribution center to  
17 all Walgreens stores they service."

18 The report doesn't note any  
19 issues or problems with this suspicious order  
20 report here, correct?

21 MR. JACO: Objection to form.

22 THE WITNESS: Right. That  
23 would be consistent with DI's training  
24 with not to approve or disapprove.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. And then on page 19 at the  
3 bottom of the page, do you see Item Number 4  
4 that notes "the problem with the C-II vault,  
5 the day gate not closing properly"?

6 Sorry, it's not the vault, it's  
7 the gate. Let me strike the question and ask  
8 it again.

9 Do you see at the bottom of  
10 page 19 where the DEA has noted that "the  
11 large day gate is equipped with a  
12 self-closing, self-locking device, and the  
13 investigators found the bottom of the day  
14 gate did not close completely, allowing  
15 access to the vault through the lower portion  
16 of the day gate"?

17 A. Yes.

18 Q. Okay. Then if you turn to the  
19 very bottom of page 23 of this same report,  
20 you see the heading that says "Discussion  
21 with Management"?

22 A. Yes.

23 Q. And then it carries over to 24  
24 and says, "Diversion Investigators Honoway  
25 and GS" --

1                   Is that group supervisor  
2   Francis?

3           A.       Yes, GS would stand for group  
4   supervisor.

5           Q.       That Ms. Honoway and  
6   Ms. Francis met with Mr. Kneller and Justin  
7   Joseph and Jeremy Willis, all in Walgreens  
8   management, correct?

9           A.       I don't know if they're all  
10   with management. It appears they're all  
11   employees of Walgreens.

12          Q.       Got it. Yes.

13                   It says that they held a  
14   management -- the DI and the GS held a  
15   management discussion with those three  
16   employees of Walgreens, correct?

17                   MR. JACO: Objection.

18                   Misstates the document.

19   QUESTIONS BY MS. SWIFT:

20          Q.       The report says that GI Honoway  
21   and GI -- sorry.

22                   The report says that DI Honoway  
23   and GS Francis talked to Mr. Kneller, Justin  
24   Joseph and Jeremy Willis, correct?

25          A.       Yes.

1           Q.       And then paragraph 2 summarizes  
2   issues that were noted but that Walgreens had  
3   already corrected, so they were not cited as  
4   violations. And it includes -- that includes  
5   providing more effective measures to thefts  
6   and losses during shipping through a common  
7   carrier, correct?

8           A.       Yes.

9           Q.       Then paragraph 3 notes a couple  
10   of recordkeeping violations, including 222  
11   forms not being completed properly, correct?

12          A.       Yes.

13          Q.       It says the date was not  
14   accurately identified on the 222 forms?

15          A.       For items not received, and  
16   also the dates items were shipped was not  
17   accurately identified.

18          Q.       Then in paragraph 4, it notes  
19   violations pertaining to List I chemicals  
20   that were previously cited during the  
21   in-depth regulatory investigation in 2006,  
22   correct?

23          A.       I'm sorry, could you repeat?  
24   You froze up there when you started the  
25   question.

1 Q. Sure.

2 I'm looking at paragraph 4 on  
3 page 24, and it notes that the following  
4 violations pertaining to List I chemicals  
5 were previously cited during the in-depth  
6 regulatory investigation in 2006, correct?

7 A. Yes.

8 Q. And it says, again, List I  
9 chemicals. Those are things like Sudafed.  
10 They do not include opioids, right?

11 A. They're not considered to be  
12 controlled substances.

13 Q. Okay. One of the violations  
14 listed with respect to the List I chemicals  
15 is -- relates to identification of suspicious  
16 orders, correct?

17 A. One of the items does, yes.

18 Q. Then on page 25, paragraph  
19 number 5 says -- well, strike that.

20 The paragraph 4 notes that  
21 these are List I chemical violations that  
22 were previously cited and haven't yet been  
23 corrected, according to DEA, right?

24 A. Yes.

25 Q. And then on page 25, on

1 paragraph 5 it states that Mr. Joseph tried  
2 to address the referenced List I chemical  
3 violations by showing records on a large  
4 computer screen but did not provide  
5 printouts.

6 As of the date of the report,  
7 it says that no additional records have been  
8 provided to satisfy the List I chemical  
9 violations, correct?

10 A. Yes.

11 Q. And the conclusion says that  
12 the DEA is going to send another letter of  
13 admonition, correct?

14 A. Yes.

15 Q. This 2009 DEA investigation  
16 report of Walgreens' Perrysburg distribution  
17 center does not note any violations relating  
18 to suspicious orders of controlled substances  
19 such as opioids, correct?

20 A. Correct.

21 Q. It does note violations  
22 relating to other issues that the DI  
23 discovered during the investigation and  
24 documented in the report, correct?

25 A. Yes.

1           Q.       Turn, if you would, please, to  
2   Exhibit 10.

3                   MR. JACO:   Kate, just jumping  
4                   in.   We've been going for about an  
5                   hour and a half.

6                   Are you close to a good  
7                   breaking point?

8                   MS. SWIFT:   This would be a  
9                   great breaking point if you guys want  
10                  to take five or ten minutes.

11                  MR. JACO:   Yeah, let's take --  
12                  let's -- I'm fine with five minutes.

13                  Claire, is that okay with you?

14                  THE WITNESS:   Yes.

15                  MR. MOUGEY:   If we could do  
16                  ten, that would be great.   This is  
17                  Peter.   If we could start back at 5  
18                  till, that would be great.

19                  VIDEOGRAPHER:   Going off the  
20                  record.   The time is 11:44.

21                  (Off the record at 11:44 a.m.)

22                  VIDEOGRAPHER:   We are going  
23                  back on the record.   The time is  
24                  11:57.

25                  (Brennan 30(b)(6) Exhibit 10

1                   marked for identification.)

2       QUESTIONS BY MS. SWIFT:

3                   Q.       Welcome back, Ms. Brennan.

4                           I think I had just asked you to  
5       turn to Exhibit 10 before we went off the  
6       record.

7                           Do you have that in front of  
8       you?

9                   A.       Yes.

10                  Q.       Exhibit 10 is a July 28, 2009  
11       letter from Mr. Kneller at Walgreens to  
12       Mr. Corso at the DEA, correct?

13                  A.       Yes, it's -- sorry, that's what  
14       it appears to be.

15                  Q.       Mr. Kneller is the Walgreens  
16       distribution center manager who was discussed  
17       in the previous investigation report that we  
18       looked at from May of 2009, correct?

19                  A.       Yes, Mr. Kneller was mentioned  
20       in that report. This one also was not able  
21       to be produced by DEA from our records.

22                  Q.       And in this July 2009 letter,  
23       Mr. Kneller states that he is responding to a  
24       June 25th letter of admonition, correct?

25                           MR. JACO: Objection.

1 QUESTIONS BY MS. SWIFT:

2 Q. Let me reask it.

3 The first paragraph of  
4 Mr. Kneller's letter said, "This letter is in  
5 response to your June 25, 2009 correspondence  
6 regarding the above-referenced facility."

7 And that facility is the  
8 Perrysburg, Ohio, distribution center.

9 Do you see that?

10 A. Yes.

11 Q. Mr. Kneller says to the DEA in  
12 this letter that Walgreens appreciates the  
13 opportunity to comply with the Controlled  
14 Substances Act requirements and then  
15 describes remedial actions that Walgreens has  
16 taken to correct certain alleged violations,  
17 correct?

18 A. Yes.

19 Q. Then Section 1 of the letter  
20 relates to controlled substances.

21 Do you see that?

22 A. Yes.

23 Q. Mr. Kneller notes two issues,  
24 and Walgreens responds to each of those  
25 issues.

1 Do you see that?

2 A. Yes.

3 Q. One of the issues relates to  
4 the proper completion of 222 forms, and the  
5 other relates to the day gate and the  
6 Schedule II vault not being self-closing and  
7 self-locking, correct?

8 A. Yes.

9 Q. These are the same two issues  
10 relating to controlled substances that were  
11 identified in the May 2009 investigation  
12 report, correct?

13 MR. JACO: Objection. Form.

14 THE WITNESS: Yes, it appears  
15 that way.

16 QUESTIONS BY MS. SWIFT:

17 Q. Neither of these two issues  
18 relates to identifying or reporting  
19 suspicious orders of controlled substances,  
20 right?

21 MR. JACO: Objection. Form.

22 THE WITNESS: No.

23 QUESTIONS BY MS. SWIFT:

24 Q. No, they don't relate to  
25 suspicious orders?

1           A.       No, they don't relate to  
2       suspicious orders.

3           Q.       Then the rest of Mr. Kneller's  
4       letter in July of 2009 addresses issues that  
5       DEA had identified with List I chemicals like  
6       Sudafed, correct?

7           A.       Yes.

8           Q.       None of those issues involve  
9       controlled substances like opioids, right?

10          A.       No, they pertain to List I  
11       chemicals.

12                   (Brennan 30(b)(6) Exhibit 11  
13       marked for identification.)

14       QUESTIONS BY MS. SWIFT:

15          Q.       Turn, if you would, please, to  
16       Exhibit 11, which is an August 17, 2009  
17       Perrysburg case closing document.

18                   Do you see that?

19          A.       Yes.

20          Q.       In the re: line it says that  
21       this August 17, 2009 document relates to  
22       response to LOA case closing.

23                   Do you see that?

24          A.       Yes.

25          Q.       Do you think that LOA relates

1 to letter of admonition?

2 A. Yes, based on my experience,  
3 that's what -- it would.

4 Q. And then do you see at the  
5 bottom -- well, towards the bottom under  
6 Attachments, there's a reference in this DEA  
7 report to an original letter dated July 28,  
8 2009, from Walgreens?

9 A. Yes.

10 Q. Would you agree with me that  
11 that's the July 28, 2009 letter from  
12 Walgreens that we just looked at?

13 MR. JACO: Objection. Form.

14 THE WITNESS: Again, this  
15 wasn't produced by DEA from our files,  
16 but it appears that it matches up with  
17 the dates in this report.

18 QUESTIONS BY MS. SWIFT:

19 Q. Exhibit 11, the August 2009  
20 Perrysburg closing document, says that on  
21 August 6, 2009, DI Honoway received the  
22 attached letter from Steve Kneller,  
23 distribution center manager of Walgreens'  
24 Perrysburg facility, in response to the  
25 letter of admonition dated June 20, 2009,

1 correct?

2 A. Yes.

3 Q. And I just heard you say that  
4 the July 2009 letter from Mr. Kneller  
5 couldn't be produced by DEA because DEA  
6 couldn't find it.

7 We also don't have this  
8 June 25, 2009 letter. Do you know whether  
9 that's another one that DEA was unable to  
10 locate?

11 A. I believe that is the case.

12 Q. In this August 2009 Perrysburg  
13 case closing document, DEA says that  
14 Mr. Kneller has identified the correct  
15 actions that were being taken to address all  
16 of the violations noted during the regulatory  
17 investigation, correct?

18 A. Yes.

19 Q. And then it goes on to say that  
20 no further action is required at this time,  
21 and it is recommended that this case file be  
22 closed, correct?

23 A. Yes.

24 Q. It also says that Group  
25 Supervisor Francis concurs with this

1 recommendation, right?

2 A. Yes.

3 (Brennan 30(b)(6) Exhibit 15

4 marked for identification.)

5 QUESTIONS BY MS. SWIFT:

6 Q. Okay. Now I'd like you to turn  
7 to Exhibit 15, if you would, please.

8 Exhibit 15 is a DEA  
9 investigation report dated January 7, 2013,  
10 relating to an investigation of the  
11 Perrysburg distribution center again,  
12 correct?

13 A. A pre-on-site investigation  
14 relating to it, yes.

15 Q. This is a four-page report, and  
16 would you agree with me that it's pretty  
17 heavily redacted? It looks like a page and a  
18 half of those four pages?

19 A. Yes.

20 Q. On page 1, under ARCOS  
21 Analysis -- do you see that, where it says  
22 "ARCOS Analysis"? That heading?

23 A. Yes.

24 Q. In that paragraph it says, "Due  
25 to the high volume of transactions reported

1 by Walgreens, an ARCOS analysis had to be  
2 requested to be generated from the ARCOS  
3 unit."

4 Correct?

5 A. Yes.

6 Q. Am I correct that the earlier  
7 DEA memo we looked at instructed diversion  
8 investigators to request ARCOS analyses  
9 before all on-site investigations?

10 Do you recall that?

11 A. Yes.

12 Q. Does this statement in the  
13 January 2013 report suggest to you that the  
14 investigators didn't always do that?

15 A. I can't say from this. I don't  
16 think you can suggest that.

17 Q. Okay. On page 2 of the 2013  
18 report, do you see in the middle of the page  
19 where it says "Suspicious Order Reporting"?

20 A. Yes.

21 Q. It says, "Walgreens reported on  
22 a monthly basis to the Detroit DO; however,  
23 since January 1, 2012, no reports have been  
24 received at the Detroit DO."

25 Correct?

1 A. Yes.

2 Q. Then a little bit farther down  
3 on that same page, do you see where it says  
4 "Historical Background"?

5 A. Yes.

6 Q. It says, "Walgreens has been  
7 the subject of letters of admonition in past  
8 regulatory investigations. The violations  
9 have included recordkeeping violations and  
10 insufficient reporting of suspicious orders."

11 Correct?

12 A. Yes.

13 Q. We looked at the previous  
14 investigation report from 2009, and we also  
15 looked at the letter of admonition from 2006.

16 Do you remember both of those  
17 documents?

18 A. Yes.

19 Q. The letter of admonition from  
20 2006 is the only document we've seen today  
21 that -- where DEA concluded that Walgreens  
22 had insufficient reporting of suspicious  
23 orders of controlled substances, correct?

24 MR. JACO: Objection. Form.

25 THE WITNESS: Could you also

1 repeat -- you froze up again at the  
2 beginning.

3 QUESTIONS BY MS. SWIFT:

4 Q. Sure.

5 You recall the letter of  
6 admonition from 2006 that stated that at that  
7 point in time Walgreens' system for  
8 suspicious order reporting was insufficient?

9 A. Yes.

10 Q. That is the only document we've  
11 seen today where DEA concluded that  
12 Walgreens' system for reporting suspicious  
13 orders of controlled substances was in  
14 violation or insufficient or that there was  
15 anything wrong with it.

16 Would you agree with that?

17 MR. JACO: Objection. Form.

18 THE WITNESS: Yes, so it  
19 appears that that -- we don't have the  
20 2006 investigation, but it appears  
21 that the letter of admonition did  
22 point that out.

23 QUESTIONS BY MS. SWIFT:

24 Q. And we saw in the 2009  
25 Perrysburg report and the subsequent closing

1 document DEA concluded that Walgreens had  
2 addressed all of the issues raised, and  
3 closed the Perrysburg case that it had open,  
4 correct?

5 MR. JACO: Objection. Form.

6 THE WITNESS: Yes, that  
7 appeared to be so.

8 QUESTIONS BY MS. SWIFT:

9 Q. Nothing that we can see in the  
10 2013 Perrysburg report identifies any new  
11 violations relating to the suspicious order  
12 monitoring of controlled substances, correct?

13 MR. JACO: Objection. Form.

14 THE WITNESS: Right now they're  
15 only reporting on something in the  
16 office. They haven't been on site yet  
17 to have a discussion or to ask those  
18 questions.

19 QUESTIONS BY MS. SWIFT:

20 Q. So you would agree with me that  
21 there's nothing in this four-page report that  
22 we can see that identifies any new violations  
23 relating to suspicious orders of controlled  
24 substances?

25 MR. JACO: Same objection.

1 THE WITNESS: I don't see any  
2 violations listed throughout this  
3 report.

4 (Brennan 30(b)(6) Exhibit 18  
5 marked for identification.)

6 QUESTIONS BY MS. SWIFT:

7 Q. Turn, if you would, please, to  
8 Exhibit 18.

9 This is a June 2015 document,  
10 and the subject line says, "Case closing and  
11 regulatory investigation of Walgreens  
12 Corporation."

13 Correct?

14 A. Yes.

15 Q. It's another report of a DEA  
16 investigation of the Perrysburg distribution  
17 center, correct?

18 A. Yes.

19 Q. If you turn with me, please, to  
20 page 5, towards the bottom of the page,  
21 paragraph number 3.

22 Do you see that?

23 A. Yes.

24 Q. It says, "In 2013, the Detroit  
25 divisional office received information from a

1 source of information."

2 What does that mean, "a source  
3 of information"? Do you know?

4 A. Yes.

5 Q. What does it mean?

6 A. It usually means someone who we  
7 might -- we may or may not know their  
8 identity when they call in. It may be an  
9 anonymous person who gives information.

10 Q. Could it be anybody, like  
11 somebody who works for the company, somebody  
12 who doesn't work for the company?

13 MR. JACO: Objection. Form.

14 THE WITNESS: Yes.

15 QUESTIONS BY MS. SWIFT:

16 Q. All right. So this is saying  
17 that in 2013 the Detroit office of the DEA  
18 received information from a source of  
19 information, we don't know who that is, and  
20 that source communicated knowledge of alleged  
21 violations regarding the Walgreens  
22 Corporation DC, or distribution center,  
23 located in Perrysburg, Ohio, correct?

24 A. Yes.

25 Q. It goes on to say that

1 "diversion investigators interviewed the  
2 source and were provided intelligence  
3 regarding violations in security and  
4 recordkeeping of controlled substances. In  
5 February 2013, the Detroit divisional field  
6 office executed on-site administrative  
7 inspection warrant and issued subpoenas for  
8 various records. The complaint  
9 investigation" -- and then it says, "DEA  
10 investigative case file, redacted, disclosed  
11 the following violations."

12 Have I read all of that  
13 correctly so far?

14 A. Yes.

15 Q. And then it lists -- there's  
16 three bullet points for alleged violations.

17 The first one says,  
18 "Schedule II controlled substances were not  
19 properly secured in the vault, a violation of  
20 21 CFR 1301.72(a)."

21 Correct?

22 A. Yes.

23 Q. That doesn't have anything to  
24 do with suspicious order monitoring or  
25 reporting, correct?

1 A. Correct.

2 Q. Then the second bullet point, I  
3 won't read the whole thing, but would you  
4 agree with me that it relates to DEA 222  
5 forms being incomplete and not recording on  
6 copies 1 and 2 the number of commercial  
7 containers furnished on each item and the  
8 date on which the containers were shipped to  
9 the purchaser?

10 A. Yes, you read that correctly.

11 Q. And the report says that that's  
12 a violation of 21 CFR 1305.13(b), correct?

13 A. Yes.

14 Q. Would you agree with me that  
15 this violation regarding the DEA 222 forms  
16 does not have anything to do with suspicious  
17 order monitoring or reporting?

18 MR. JACO: Objection. Form.

19 THE WITNESS: There's nothing  
20 in this paragraph that says anything  
21 about suspicious ordering or  
22 monitoring.

23 QUESTIONS BY MS. SWIFT:

24 Q. And those are actually the only  
25 violations identified here.

1                   The next bullet, which is the  
2   last one, simply states, "The Walgreens  
3   Corporation investigation conducted under DEA  
4   investigative case, redacted, was made part  
5   of a DEA national investigation which  
6   resulted in a large civil settlement  
7   agreement."

8                   And then it has an amount given  
9   there, \$80 million, right?

10           A.       Yes.

11           Q.       Would you agree with me that  
12   that bullet point also doesn't say anything  
13   about suspicious order monitoring or  
14   reporting?

15                   MR. JACO:  Objection.  Form.

16                   THE WITNESS:  That bullet  
17           doesn't really say much about anything  
18           other than a settlement.

19   QUESTIONS BY MS. SWIFT:

20           Q.       This report from 2015 makes no  
21   mention anywhere of any violation of --  
22   related to suspicious order monitoring or  
23   reporting, correct?

24                   MR. JACO:  Objection.  Form.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. Let me actually reask that  
3 question. I apologize.

4 This report makes no mention of  
5 any violation relating to suspicious order  
6 monitoring or reporting coming out of the  
7 February 2013 investigation that's being  
8 described in this part of the report, right?

9 MR. JACO: Same objection.

10 THE WITNESS: I'm not seeing  
11 that stated as a violation.

12 QUESTIONS BY MS. SWIFT:

13 Q. Turn, if you would, please, to  
14 page 10 of the 2015 Perrysburg report. And  
15 I'll direct your attention to the section  
16 that says "Suspicious Orders."

17 Do you see that?

18 A. Yes.

19 Q. And the first paragraph under  
20 that heading says, "Walgreens Corporation DC  
21 no longer handles controlled substances or  
22 prescription drugs."

23 Correct?

24 A. Yes.

25 Q. It goes on to say that a

1 summary of Walgreens Corporation DC's  
2 suspicious order monitoring system was  
3 provided and is attached to this report.

4 Do you see that?

5 A. Yes.

6 Q. It says that the system, the  
7 Walgreens suspicious order monitoring system,  
8 sets allocation limits on all controlled  
9 substances and the List I chemical products  
10 ordered, correct?

11 A. Yes, that's what it says.

12 Q. It says, "The suspicious order  
13 monitoring system is triggered when any order  
14 exceeds the threshold assigned to that  
15 specific store for that specific drug."

16 Correct?

17 A. Yes.

18 Q. And then it says, "All flagged  
19 orders are investigated as orders of interest  
20 by Walgreens' pharmaceutical integrity team  
21 to determine if it was a suspicious order.  
22 It is the store's responsibility to provide  
23 an explanation as to why more product was  
24 ordered than what the ordering system  
25 suggested for that store. The pharmaceutical

1 integrity team then reviews each response to  
2 determine if the flagged order is suspicious  
3 and reports the order to the local DEA office  
4 if it is deemed suspicious."

5 Correct?

6 A. That's what it says, yes.

7 Q. This is a different method of  
8 suspicious order monitoring than the method  
9 that Walgreens previously told DEA it was  
10 using following the Appendix E-3 Chemical  
11 Handler's Manual, correct?

12 MR. JACO: Objection. Form.

13 THE WITNESS: It's hard to say.

14 It's not described here what method  
15 they're using.

16 QUESTIONS BY MS. SWIFT:

17 Q. The report does not identify  
18 any problem with Walgreens using this system  
19 of monitoring suspicious orders, correct?

20 A. That's consistent with the  
21 DEA's --

22 MR. JACO: Objection.

23 THE WITNESS: I'm sorry.

24 That's consistent with the  
25 training of the diversion

1 investigator. They ask about a  
2 system, and then they describe that  
3 system that the registrant has set up.

4 QUESTIONS BY MS. SWIFT:

5 Q. DEA certainly doesn't identify  
6 any violation based on Walgreens using this  
7 suspicious order monitoring system that is  
8 described in the Perrysburg investigation  
9 report?

10 MR. JACO: Objection. Form.

11 THE WITNESS: Yeah, there's no  
12 indication from this that it was  
13 signed off on or, you know, it was  
14 approved or disapproved.

15 QUESTIONS BY MS. SWIFT:

16 Q. Well, take a look at page 13,  
17 if you would, please.

18 You see the paragraph that says  
19 "discrepancies and discussion with  
20 management"?

21 A. Yes.

22 Q. And in the middle of that  
23 paragraph, do you see where it says, "DI  
24 Groves," or Diversion Investigator Groves,  
25 "stated there were no violations disclosed

1 during this investigation"?

2 A. Yes.

3 Q. Now, I'd like to ask you to go  
4 back to page 2, if you would, please. And do  
5 you see the second paragraph on page 2 where  
6 it says, "Investigators inspected the  
7 Walgreens Corporation DC facility's security  
8 and concentrated their inspection in the  
9 designated areas for the controlled  
10 substances, those being the Schedule II  
11 cage/vault and the Schedule III through V  
12 cage"?

13 A. Yes.

14 Q. And it goes on to say that  
15 "There were no controlled substances viewed  
16 in any of these areas because Walgreens  
17 Corporation DC had not handled controlled  
18 substances for over two years."

19 Do you see that?

20 A. Yes.

21 Q. Do you see where it says, "The  
22 on-site was initiated on May 5, 2015, and  
23 concluded on that same day"?

24 A. Yes.

25 Q. It says, "Security was deemed

1     adequate; no violations were noted during  
2     this investigation."

3                     Correct?

4             A.       Yes.

5             Q.       Then it says, "No violations of  
6     the memorandum of agreement the firm remains  
7     under were found. No further investigation  
8     is deemed warranted, and this investigation  
9     and this case will be closed with the  
10    concurrence of GS Angela Francis."

11                    Correct?

12            A.       Yes.

13            Q.       All right. Then turn, if you  
14    would, please, to Exhibit 19. Exhibit 19 is  
15    a June 13, 2017 investigation report of the  
16    Perrysburg distribution center, correct?

17            A.       Yes.

18            Q.       Do you see in the third  
19    paragraph on page 1 it says -- the last  
20    sentence of that paragraph says, "In  
21    addition, no violations were revealed during  
22    the investigation, and security was deemed  
23    adequate."

24                    Do you see that?

25            A.       Yes.

1           Q.       And then it goes on to say, "No  
2   further investigation is warranted.  
3   Therefore, upon concurrence of this report of  
4   investigation, group supervisor John  
5   Cavendish, this case will be closed."

6                   Correct?

7           A.       Yes.

8                   (Brennan 30(b)(6) Exhibit 19  
9   marked for identification.)

10   QUESTIONS BY MS. SWIFT:

11           Q.       Okay. Exhibit 19 is the last  
12   report in time that we have. That's from  
13   June of 2017.

14                   And now we're going to go all  
15   the way back in time to Exhibit 1, which is a  
16   May 1999 report of a different distribution  
17   center in Mount Vernon, Illinois.

18                   Are you with me?

19           A.       Yes.

20           Q.       Okay. On page 1 of the Mount  
21   Vernon, Illinois, report dated May 27, 1999,  
22   there are two problems noted.

23                   Do you see that in paragraph  
24   number 3?

25           A.       Yes.

1           Q.       The first problem noted is that  
2   the self-closing cage door was restrained  
3   while employees moved orders to the waiting  
4   area.

5                   Do you see that?

6           A.       Yes.

7           Q.       And then the second problem  
8   that's noted is that a dedicated transmission  
9   line to the Mount Vernon police department  
10   had been changed to a digital communicator  
11   answered by Alarm Communications Co. of  
12   Bloomington, Minnesota.

13                   Right?

14          A.       Yes.

15          Q.       And then it says, "The problem  
16   with the cage door was addressed with  
17   employees while the investigators were there  
18   on site."

19                   Right?

20          A.       Yes.

21          Q.       And then it says that with  
22   respect to the alarm system, it says that the  
23   alarm system will be changed within two  
24   months when the controlled substances storage  
25   area will be moved to the second floor and

1 additional alarm coverage added, correct?

2 A. Yes.

3 Q. And it concludes by saying a  
4 letter of admonition will be sent to  
5 Walgreens' Mount Vernon distribution center,  
6 right?

7 A. Yes.

8 Q. Then if you turn with me,  
9 please, to page 8. Would you agree with me  
10 that pages 8 through 14 of this investigation  
11 report provide information about drug and  
12 equipment security at the Mount Vernon  
13 distribution center?

14 MR. JACO: Objection. Form.

15 THE WITNESS: I would agree the  
16 bottom, starting with part 6, is drug  
17 and equipment security, not all of  
18 page 8.

19 QUESTIONS BY MS. SWIFT:

20 Q. Right.

21 Starting on page 8 at the  
22 bottom, there's a section called Drug and  
23 Equipment Security, and that section carries  
24 through to the bottom of page 14, right?

25 A. Yes.

1 Q. On page 11, Item Number 2 under  
2 Cage Construction describes the issue with  
3 the self-closing cage door, right?

4 A. Yes.

5 Q. On page 12, Item Number 3  
6 describes the issue with the alarm system,  
7 right?

8 A. Yes.

9 Q. Then on page 13, paragraph H  
10 says "Suspicious Orders." Right?

11 There's one paragraph there on  
12 suspicious orders?

13 A. Yes.

14 Q. It says, "A monthly report  
15 entitled 'Suspicious controlled drug orders  
16 for month of...' is received regularly by the  
17 St. Louis DO from Cheryl D. McCray, logistics  
18 and planning analyst, located in the Walgreen  
19 corporate office. Information received is  
20 categorized by drug item number and product  
21 description listing the store number, DEA  
22 number, address, store category number,  
23 average order quantity per store, DEA factor  
24 and trigger quantity. If the store surpasses  
25 its trigger quantity, all orders, dates and

1 quantities for that store that month are  
2 listed."

3 Did I read that correctly?

4 A. Yes.

5 Q. There's no mention here of any  
6 problem that the DEA found with that method  
7 of reporting suspicious orders, correct?

8 MR. JACO: Objection. Form.

9 THE WITNESS: That would be --  
10 that would be consistent with the DI's  
11 training, to just report that -- the  
12 system that the -- that the registrant  
13 reported as being in place.

14 QUESTIONS BY MS. SWIFT:

15 Q. Okay. So you'll agree with me,  
16 there's no mention of there being any problem  
17 with that method of reporting suspicious  
18 orders, right?

19 A. There's no mention that it was  
20 approved nor disapproved.

21 MR. JACO: Objection.

22 Give me a chance to object.

23 Objection. Form.

24 Go ahead.

25 THE WITNESS: There's no

1            mention that the system was neither  
2            approved or disapproved.

3        QUESTIONS BY MS. SWIFT:

4            Q.        Page 15 of the report, there's  
5        a section called Discrepancies and  
6        Discussions with Management, correct?

7            A.        Correct.

8            Q.        Again, it mentions the issue  
9        with the self-closing cage gate?

10          A.        Yes.

11          Q.        It also mentions an issue with  
12        DEA 106 forms?

13          A.        Yes.

14          Q.        And again, it mentions the  
15        issue with alarm transmission, correct?

16          A.        Yes.

17          Q.        And it says a letter of  
18        admonition will be sent, presumably on those  
19        issues, right?

20                    MR. JACO: Objection. Form.

21                    THE WITNESS: Yeah, it says a  
22        letter of admonition will be sent.  
23        Unless you see the letter, you don't  
24        know what specifically, but it should  
25        have one.

1 QUESTIONS BY MS. SWIFT:

2 Q. None of the issues discussed in  
3 this section, Discrepancies and Discussions  
4 with Management, relate to suspicious order  
5 monitoring or reporting, correct?

6 MR. JACO: Objection. Form.

7 THE WITNESS: No, but again,  
8 the silence on it is consistent with  
9 diversion investigators' training.

10 QUESTIONS BY MS. SWIFT:

11 Q. We've seen when the diversion  
12 investigators have issues with suspicious  
13 order monitoring reporting, we've seen that  
14 documented, right, in the 2006 letter of  
15 admonition that Walgreens subsequently  
16 addressed?

17 MR. JACO: Objection. Form.

18 THE WITNESS: That was  
19 mentioned because it wasn't based  
20 solely on controlled substances, which  
21 the regulation states.

22 (Brennan 30(b)(6) Exhibit 2  
23 marked for identification.)

24 QUESTIONS BY MS. SWIFT:

25 Q. Okay. Turn, if you would,

1 please, to Exhibit 2, which is a  
2 September 13, 1999 Mount Vernon report. And  
3 this is about three months after the last  
4 report we looked at, right?

5 A. Yes.

6 Q. If you look at the last  
7 sentence in the synopsis on the first page,  
8 it says, "The cage and alarm system were  
9 approved on September 8, 1999."

10 Correct?

11 A. Yes.

12 Q. Those are the same two issues  
13 that we saw noted in the May 1999 report of  
14 the Mount Vernon distribution center,  
15 correct?

16 A. They notated an issue with the  
17 cage and the alarm.

18 Q. And then three months later, in  
19 this report marked as Exhibit 2, DEA is  
20 saying that the cage and alarm system were  
21 approved, right?

22 A. They're making reference to, in  
23 the other report, that they were going to be  
24 relocating their cage.

25 Q. And it says, "The cage and

1 alarm system were approved."

2 Correct?

3 A. Yes.

4 Q. There are no problems or  
5 violations identified in this report from  
6 September of 1999, correct?

7 MR. JACO: Objection to form.

8 THE WITNESS: No, there's no  
9 violations stated.

10 (Brennan 30(b)(6) Exhibit 4  
11 marked for identification.)

12 QUESTIONS BY MS. SWIFT:

13 Q. Right.

14 Turn, if you would, please, to  
15 Exhibit 4. We're going to jump ahead five  
16 years and go to a different distribution  
17 center.

18 Exhibit 4 is a report on the  
19 Jupiter, Florida, distribution center from  
20 December of 2004, correct?

21 A. Yes.

22 Q. On page 1, the report notes  
23 that this investigation was initiated on  
24 May 24, 2004, and ended on May 27, 2004,  
25 correct?

1 A. Yes.

2 Q. It says, "The audit revealed no  
3 discrepancies."

4 Correct?

5 A. Yes.

6 Q. Then it says, "Since no  
7 significant violations were noted, this file  
8 is closed."

9 Correct?

10 A. Yes.

11 Q. Turn to page 3 of the 2004  
12 Jupiter report, please.

13 And do you see the heading  
14 Basis of Investigation?

15 A. Yes.

16 Q. It describes this investigation  
17 as in-depth, correct?

18 A. Yes.

19 Q. Okay. Then turn to page 4,  
20 please. You see a little bit more than  
21 halfway down the page where it says, "Only  
22 this Jupiter facility and the Woodland,  
23 California, facility distribute Schedule II  
24 controlled substances"?

25 A. Yes.

1           Q.       Then turn to page 15, if you  
2 would, please.

3                    You see the section that's  
4 called Discrepancies and Discussion with  
5 Management?

6           A.       Yes.

7           Q.       It says, "No violations were  
8 uncovered."

9                    Correct?

10          A.       Yes.

11                   (Brennan 30(b)(6) Exhibit 5  
12 marked for identification.)

13 QUESTIONS BY MS. SWIFT:

14          Q.       All right. Turn to Exhibit 5,  
15 please. We're jumping ahead in time again.  
16 Now we're in June of 2005, and we've gone  
17 back to the Mount Vernon distribution center.

18                   This is a report of an  
19 investigation of the Mount Vernon DC,  
20 correct?

21          A.       Yes.

22          Q.       And I'd like you to turn to  
23 page 19.

24                   Do you see towards the top of  
25 the page where it says, "Investigators gave

1 Mr. Prost the following items to serve as  
2 official notices of laws and regulations  
3 pertaining to the handling of listed  
4 chemicals."

5 Do you see that?

6 A. Yes.

7 Q. The first item on the list  
8 says, "Suspicious order guidelines."

9 Do you see that?

10 A. Yes.

11 Q. The second item on the list is  
12 the DEA Chemical Handler's Manual, correct?

13 A. Yes.

14 Q. And then there's several other  
15 things listed as well, right?

16 A. Yes.

17 Q. Then below that list it says,  
18 "DI Hull further advised Mr. Prost that if a  
19 customer asks for any of the other products  
20 on the notices or special surveillance list  
21 in combination with pseudoephedrine  
22 purchases, this would be a suspicious order."

23 Correct?

24 A. Yes.

25 Q. There are no other references

1 to suspicious orders anywhere in this report;  
2 would you agree with me?

3 And please take a minute to  
4 confirm that, if you would.

5 MR. JACO: Object to the form.

6 You can answer.

7 THE WITNESS: I don't -- I  
8 don't see it, and I don't recall  
9 seeing that in the report.

10 QUESTIONS BY MS. SWIFT:

11 Q. Okay. Turn back to page 1 of  
12 the June 2005 Mount Vernon report, please.

13 A. I'm sorry, page 1?

14 Q. Yes.

15 Page 1 of the 2005 Mount Vernon  
16 investigation report concludes, "No  
17 violations were discovered during this  
18 scheduled investigation; therefore, this case  
19 is closed."

20 Correct?

21 A. That's what that says, yes.

22 (Brennan 30(b)(6) Exhibit 7  
23 marked for identification.)

24 QUESTIONS BY MS. SWIFT:

25 Q. Turn with me, please, to

1 Exhibit 7 in your binder.

2 We've jumped ahead again. Now  
3 we're in June of 2006, and this is another  
4 report related to the Mount Vernon  
5 distribution center, but it's a little bit  
6 different.

7 Would you agree with me?

8 A. Yes.

9 Q. This report marked as Exhibit 7  
10 is about the disappearance of 12,000  
11 lorazepam 1 milligram tablets, correct?

12 A. Yes.

13 Q. Walgreens reported the loss  
14 and -- this unexplained loss of lorazepam  
15 tablets to the DEA, correct?

16 A. Yes.

17 Q. And then in response, DEA  
18 initiated this investigation?

19 A. Yes.

20 Q. There's nothing in this  
21 June 2006 Mount Vernon report about  
22 suspicious orders, right?

23 MR. JACO: Objection. Form.

24 THE WITNESS: No.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. "No" meaning --

3 A. No, there's nothing about  
4 suspicious orders.

5 Q. Thank you.

6 (Brennan 30(b)(6) Exhibit 12  
7 marked for identification.)

8 QUESTIONS BY MS. SWIFT:

9 Q. Turn, if you would, please, to  
10 Exhibit 12.

11 Exhibit 12, we've jumped ahead  
12 three years in time, and we're now in October  
13 of 2009. And this is a report of another  
14 investigation of the Jupiter, Florida,  
15 distribution center, correct?

16 A. Yes.

17 Q. On page 1 of this 2009 Jupiter,  
18 Florida, investigation report says -- see if  
19 I can find it for you.

20 Okay, in the first paragraph at  
21 the end it says, "The investigation resulted  
22 in accountability discrepancies which were  
23 reconciled prior to the conclusion of the  
24 audit."

25 Correct?

1 A. Yes.

2 Q. Does that mean that Walgreens  
3 corrected the problems the DEA identified  
4 before this audit was even completed?

5 A. That's what it appears that  
6 this is saying.

7 Q. And in the next paragraph it  
8 says that "the audit discrepancies were  
9 caused by miscounts and/or system input  
10 errors."

11 Correct?

12 A. Yes.

13 Q. And then the next paragraph  
14 says, "In a letter dated September 21, 2009,  
15 Mr. Varno indicated the firm has implemented  
16 the following corrective actions in order to  
17 increase accuracy of the controlled substance  
18 inventories," and then it lists those  
19 actions.

20 Correct?

21 A. Yes.

22 Q. Then it concludes,  
23 "Accordingly, all discrepancies have been  
24 addressed, and this file is closed."

25 Correct?

1           A.       Yes.

2           Q.       Take a look at page 12 of this  
3   2009 report on the Jupiter distribution  
4   center.

5                   There are no mentions here or  
6   anywhere in this report from 2009 of the  
7   Jupiter, Florida, distribution center of  
8   suspicious orders or any problems with  
9   Walgreens' suspicious order monitoring  
10   system, correct?

11                 MR. JACO:  Objection.  Form.

12                 THE WITNESS:  This page  
13                   specifically is only talking about the  
14                   actual security.

15   QUESTIONS BY MS. SWIFT:

16           Q.       There are no mentions anywhere  
17   else in the report either of any problems  
18   with Walgreens' suspicious order monitoring  
19   or reporting, right?

20                 MR. JACO:  Same objection.

21                 THE WITNESS:  I believe it's  
22                   not addressed, so that doesn't -- it's  
23                   just not addressed.

24                   (Brennan 30(b)(6) Exhibit 13  
25                   marked for identification.)

1 QUESTIONS BY MS. SWIFT:

2 Q. Okay. Take a look, if you  
3 would, please, at Exhibit 13. We jumped  
4 ahead another year, and now we've gone back  
5 to the Mount Vernon distribution center.

6 Exhibit 13 is a report of an  
7 investigation of the Mount Vernon  
8 distribution center dated September 9, 2010,  
9 correct?

10 A. Yes.

11 Q. Turn to page 6 this report,  
12 please.

13 Page 6 notes Individuals  
14 Interviewed and Personal Responsibilities.

15 Do you see that heading?

16 A. Yes.

17 Q. Paragraph 1 underneath that  
18 heading notes that distribution center  
19 manager, Bill Bush, and administration and  
20 systems training manager, whose name is  
21 redacted, both of those folks were  
22 interviewed during this investigation,  
23 correct?

24 A. It's just saying that the  
25 second person was present, even though

1     they're -- it's a -- whether they -- she was  
2     interviewed -- or a he was interviewed, I  
3     can't tell from this.

4             Q.       The second paragraph there  
5     says, "Mr. Bush is the individual responsible  
6     for controlled substance records. Ms. Gill  
7     was responsible for providing the majority of  
8     all requested documents."

9                     Correct?

10            A.       Yes.

11            Q.       Then turn, if you would,  
12     please, to page 18.

13                     Do you see paragraph number 20  
14     on page 18?

15            A.       Yes.

16            Q.       It says, "According to  
17     Ms. Gill, an identifiable suspicious or  
18     excessive order sent to their facility is  
19     very uncommon. Orders from the local  
20     Walgreens pharmacies are sent to Walgreen  
21     Co.'s main district office located at 1084  
22     Mount Prospect Plaza, Mount Prospect,  
23     Illinois. Once the orders from the local  
24     Walgreens pharmacies are sent to the district  
25     office, the district office will

1 electronically send the distribution orders  
2 to Walgreens Co.'s facility."

3 Did I read all of that  
4 correctly?

5 A. Yes.

6 Q. And then it goes on to say,  
7 "Due to all order requests of controlled  
8 substances being directed to their district  
9 office in Mount Prospect, Illinois, a  
10 suspicious or excessive order will be  
11 identified at Walgreens Co.'s main district  
12 office. Ms. Gill related that she could not  
13 recall a time when an order was deemed  
14 suspicious but not identified by the district  
15 office. If what seems to be an excessive  
16 order is not caught by the district office,  
17 Walgreen Co. will call the district office  
18 and the local Walgreens pharmacy by phone to  
19 verify the order."

20 Correct?

21 A. Yes, that's what that says.

22 Q. The diversion investigators  
23 didn't identify any problem with that process  
24 in this part of the report, correct?

25 A. Again, they did what they're

1       trained to do --

2                       MR. JACO:  Objection.  Form.

3                       THE WITNESS:  Sorry.

4                       Again, they did what they were  
5       trained to do, is just ask about --  
6       ask about the system that's in place  
7       and record what the company tells them  
8       that they have one in place.

9       QUESTIONS BY MS. SWIFT:

10               Q.       {Audio interruption} -- in the  
11       closing discussion with management.  Do you  
12       see in the middle of paragraph 1 where it  
13       says "DI Matsantonis"?

14               A.       Yes.

15               Q.       It says, "DI Matsantonis  
16       informed Mr. Bush and Ms. Gill that no  
17       discrepancies were discovered during their  
18       audit of controlled substances.  DI  
19       Matsantonis related that all reviewed  
20       Walgreen Co. records and security procedures  
21       were compliant under the Federal Code of  
22       Regulations."

23                       Correct?

24               A.       Yes.

25               Q.       And then if you would, please,

1 turn back to page 1 of the September 2010  
2 Mount Vernon report.

3 Do you see at the bottom of  
4 page 1 it says, "No violations were  
5 discovered during this scheduled  
6 investigation. This case is closed"?

7 A. Yes.

8 (Brennan 30(b)(6) Exhibit 14  
9 marked for identification.)

10 QUESTIONS BY MS. SWIFT:

11 Q. And turn, if you would, please,  
12 to Exhibit 14.

13 We jumped ahead an additional  
14 two years, and Exhibit 14 is an August 2012  
15 investigation report of the Mount Vernon,  
16 Illinois, distribution center, correct?

17 A. Yes.

18 Q. Turn, if you would, please, to  
19 page 10.

20 Do you see the sentence that  
21 says "suspicious order reporting"?

22 A. Yes.

23 Q. It says, "Notification of  
24 responsibility to report all suspicious or  
25 excessive orders, no suspicious orders."

1 Correct?

2 A. Yes.

3 Q. And then do you see immediately  
4 beneath that where it says "effective  
5 controls"?

6 A. Yes.

7 Q. It says, "All physical controls  
8 against diversion in accordance with 21 USC  
9 823 were in place and operational."

10 Correct?

11 A. Yes.

12 Q. Then turn to page 18.

13 Do you see where it says  
14 "according to Ms. Gill"?

15 A. Yes.

16 Q. And it says again, "According  
17 to Ms. Gill, an identifiable excessive or  
18 suspicious order sent to their facility is  
19 very uncommon."

20 And then it recounts what  
21 Ms. Gill has told the DEA about what  
22 Walgreens does when it identifies a  
23 suspicious order, correct?

24 MR. JACO: Objection. Form.

25 THE WITNESS: Yes.

1 QUESTIONS BY MS. SWIFT:

2 Q. It's very similar to what we  
3 saw in the 2010 report; would you agree with  
4 me?

5 A. Yes.

6 Q. Including that if what seems to  
7 be an excessive order is not caught by the  
8 district office, Walgreen Co. will call the  
9 district office and the local Walgreens  
10 pharmacy by phone to verify the order,  
11 correct?

12 A. Yes, that's what it says.

13 Q. Turn back to page 1, please.

14 The bottom of page 1 states,  
15 "No violations were discovered during this  
16 scheduled investigation. This case is  
17 closed."

18 Correct?

19 A. Yes. But the not mentioning of  
20 it would be, again, consistent with a  
21 diversion investigator's training to not  
22 approve nor disapprove.

23 Q. Well, they didn't find any  
24 violations, correct?

25 A. They gave them the system -- no

1 other violations, and they said there was a  
2 system in place for...

3 Q. They didn't find any violations  
4 in this report, right?

5 A. That's what the -- that's what  
6 it says there.

7 (Brennan 30(b)(6) Exhibit 16  
8 marked for identification.)

9 QUESTIONS BY MS. SWIFT:

10 Q. All right. Turn, if you would,  
11 please, to Exhibit 16.

12 Exhibit 16 is a March 12, 2015  
13 report of another investigation of the Mount  
14 Vernon distribution center, correct?

15 A. Yes.

16 Q. And it states in the synopsis  
17 on page 1, "The firm has not handled  
18 controlled substances since May of 2014;  
19 therefore, a controlled substance  
20 accountability audit was not conducted."

21 Correct?

22 A. Yes.

23 Q. The 2015 Mount Vernon  
24 investigation report concluded that the  
25 firm's security and recordkeeping were found

1 to be in compliance, correct?

2 A. That's what it says, yes.

3 Q. Would you agree with me,  
4 Ms. Brennan, that we have looked at more than  
5 a dozen investigation reports of Walgreens'  
6 distribution centers today?

7 A. Yes.

8 Q. The only report that we saw  
9 that identified problems with Walgreens'  
10 controlled substance suspicious order  
11 monitoring was the May 2006 DEA letter of  
12 admonition marked as Exhibit 6.

13 Would you agree with that?

14 MR. JACO: Objection. Form.

15 THE WITNESS: Yeah, I would  
16 just refer to it as a letter, not a --  
17 not a report.

18 QUESTIONS BY MS. SWIFT:

19 Q. But otherwise you would agree  
20 with what I said?

21 MR. JACO: Same objection.

22 THE WITNESS: I would agree in  
23 the sense that that's -- in looking at  
24 these reports, diversion investigators  
25 have done as they were trained to do.

1 By notating the one we talked about  
2 when it was doing noncontrolled  
3 substances that was not going by the  
4 regulations, which states for  
5 controlled substances, and all the  
6 others did reference systems for  
7 controlled substances.

8 QUESTIONS BY MS. SWIFT:

9 Q. The May 2006 DEA letter marked  
10 as Exhibit 6 is the only one of the more than  
11 a dozen reports we've looked at today that  
12 found fault with Walgreens' suspicious order  
13 monitoring system for controlled substances?

14 A. Correct, which is in line with  
15 an investigator's training.

16 MR. JACO: Objection. Form.

17 THE WITNESS: Sorry.

18 MS. SWIFT: All right. I'm  
19 going to reserve the rest of my time.  
20 I don't have additional questions  
21 right now, but I expect to -- there  
22 may be follow-up after plaintiffs'  
23 questioning.

24 Can we -- can I get from Dan,  
25 the videographer, how much time we

1           have on the record so far?

2                   VIDEOGRAPHER:   Sure.   Stand by  
3           just a second.

4                   MS. SWIFT:   Thank you.

5                   VIDEOGRAPHER:   We've been on  
6           for 2 hours and 42 minutes.

7                   MS. SWIFT:   Thank you.

8                   CROSS-EXAMINATION

9   QUESTIONS BY MR. MOUGEY:

10           Q.       Ms. Brennan, good morning.   My  
11   name is Peter Mougey.   I represent the  
12   plaintiffs in this case.

13                   It's one o'clock your time.  
14   I'm more than happy to take a break for lunch  
15   now, or if you want to do a little bit and  
16   then take a break, whatever is good for you.

17           A.       I'm fine with going a little  
18   bit longer before a break.

19           Q.       Great.

20                   First of all, thank you for  
21   your 25 years of service with the DEA and the  
22   work that you've done.   We appreciate the  
23   opportunity to talk with you this morning.

24                   We've just spent, I don't know,  
25   two or three hours going through a handful of

1 documents and letters that Ms. Swift took you  
2 through.

3 One document to me that was  
4 conspicuously absent was the memorandum of  
5 agreement with Walgreens.

6 Are you familiar with that  
7 document?

8 MR. JACO: I'm going to object  
9 to questioning on the memorandum of  
10 agreement.

11 Peter, I think you know that we  
12 negotiated the scope of this  
13 deposition with Jeff Gaddy, and  
14 plaintiffs explicitly requested  
15 questioning on the MOA, and that was  
16 not authorized pursuant to the Touhy  
17 authorization that Ms. Brennan is  
18 testifying about.

19 MR. MOUGEY: I understand.  
20 Thank you. I just simply asked if  
21 Ms. Brennan was -- as a representative  
22 of the DEA today was familiar with  
23 that document.

24 MR. JACO: You can answer.

25 THE WITNESS: I know there

1           is -- there was one. I'm not familiar  
2           with what -- the details of it.

3       QUESTIONS BY MR. MOUGEY:

4           Q.       Exactly.

5                    But just generally speaking,  
6       you are familiar with the memorandum of  
7       agreement that was reached with Walgreens in  
8       2013, correct?

9           A.       Yes, I know there was one.

10          Q.       And at least some of the  
11       details that were included in that 300-plus  
12       pages was a result of the DEA's work through  
13       its investigators that ultimately resulted in  
14       that agreement, correct?

15                   MR. JACO: Object again. I'm  
16       going to object to the scope.

17                   Ms. Brennan can testify in her  
18       personal capacity to the extent she  
19       knows, but she's not testifying on  
20       behalf of DEA right now.

21                   MS. SWIFT: I'm also going to  
22       object to the extent that counsel is  
23       going to get into questions that were  
24       not authorized in the Touhy  
25       authorization, we may need to seek

1 additional time with Ms. Brennan.

2 QUESTIONS BY MR. MOUGEY:

3 Q. Ms. Brennan, you can answer.

4 A. Usually that does come about,  
5 yes. A memorandum of agreement would come  
6 about from an investigator's work.

7 Q. And you have a box of documents  
8 that we sent you, Ms. Brennan. I think it  
9 has a series of sealed folders in them,  
10 correct?

11 A. I actually was instructed to  
12 not open the box yet, so...

13 Q. Okay. So if you would take the  
14 time to open the box, and open the very first  
15 envelope marked number 1.

16 If you would, after lunch, I  
17 think if you have somebody there that can  
18 open up each one of those folders, that would  
19 be helpful, Ms. Brennan, to make it a little  
20 easier for you while we do these questions.  
21 We can take a little extra time to make sure  
22 that -- okay?

23 A. Okay.

24 (Brennan 30(b)(6) Exhibit 1  
25 marked for identification.)

1 QUESTIONS BY MS. SWIFT:

2 Q. All right. Thank you.

3 So in envelope number 1 in the  
4 Exhibit 1 is a document dated September 27,  
5 1988.

6 Do you see that, Ms. Brennan?

7 A. Yes.

8 Q. And you understand that your  
9 testimony today is not in your individual  
10 capacity but as on behalf of the DEA,  
11 correct?

12 A. Yes.

13 Q. And that you are officially  
14 speaking on behalf of the DEA, correct?

15 A. Yes.

16 Q. And in Document 1, or  
17 Exhibit 1, is a letter dated December 27,  
18 1988, from Ronald Buzzeo, who was at the time  
19 deputy director, Office of Diversion Control.

20 Do you see that document,  
21 Ms. Brennan?

22 MR. JACO: I'm going to object  
23 and instruct the witness not to answer  
24 any further questions on this  
25 document.

1                   Again, this is a document that  
2                   plaintiffs expressly requested  
3                   authorization for Ms. Brennan to  
4                   testify on.

5                   As you just noted, she's  
6                   testifying as a 30(b)(6) witness on  
7                   behalf of DEA. Her testimony was  
8                   authorized on a specific set of  
9                   documents, and this is a specific  
10                  document that plaintiffs sought. And  
11                  testimony was not authorized on this  
12                  document, so I'm going to instruct the  
13                  witness not to answer any further  
14                  questions on this document.

15                  MR. MOUGEY: Mr. -- and I  
16                  apologize, I don't know how to  
17                  pronounce your name. Is it Jaco or --

18                  MR. JACO: It's Jaco.

19                  MR. MOUGEY: Would you please  
20                  explain on the record why a letter  
21                  dated December 27, 1988, from the DEA  
22                  to Walgreens discussing the issues  
23                  that we covered for the last two and a  
24                  half hours, why Walgreens {sic} would  
25                  not allow Ms. Brennan, on behalf of

1           the DEA in the scope of audit  
2           investigations, to talk about this  
3           document?

4                   MR. JACO:   So I'm not here to  
5           re-explain the basis of the Touhy  
6           authorization.   What I can explain to  
7           you is that there are Touhy  
8           regulations that you're familiar with.  
9           There is a process in place.

10                   This is a document, a specific  
11           document, that plaintiffs sought to be  
12           authorized for this testimony.   This  
13           document was not authorized.

14                   If you're simply going to go  
15           through the Touhy process and then  
16           still ask questions about documents or  
17           topics that have not been authorized,  
18           it eviscerates the Touhy regulations.

19                   MR. MOUGEY:   So I would like --

20                   MR. JACO:   -- that you're  
21           simply going to ask questions --

22                   MR. MOUGEY:   I'd like --

23                   MR. JACO:   Sorry about that.

24           And the regulations, if you're going  
25           to then ask questions about documents

1           that have not been authorized.

2                   I'm not in a position to  
3           authorize her to expand her testimony.  
4           I don't even have the authority to do  
5           that. That's several levels above me  
6           in DOJ, which is why we go through  
7           that process in advance and certain  
8           documents were authorized.

9                   And here, we're not even  
10          talking about a document that wasn't  
11          considered. We're talking about a  
12          document that was considered. DEA --  
13          DEA, DOJ, informed you and your  
14          co-counsel that this document would  
15          not be authorized, and you're asking  
16          about it anyway.

17                  MR. MOUGEY: You said that  
18          about --

19                  MR. JACO: I'm not --

20                  MR. MOUGEY: You said that  
21          about four or five times.

22                  What I'm asking you is, could  
23          you please explain to the special  
24          masters here on the record while we  
25          have this witness here to testify

1           today, and this is directly within the  
2           scope of what this witness is here to  
3           testify about on behalf of the DEA,  
4           why in the world this document  
5           wouldn't be approved to discuss today?

6                       MR. JACO: Sure. What I can  
7           tell you is that this deposition was  
8           negotiated over the course of a number  
9           of months. Plaintiffs were copied on  
10          all of the correspondence involved in  
11          the negotiation of this deposition.

12                     Plaintiffs filed an incredibly  
13          late cross-notice and Touhy request.  
14          I'll note that that late cross-notice  
15          and Touhy request did not include this  
16          document as a requested document for  
17          her testimony.

18                     Plaintiffs were informed that  
19          their request was too late and would  
20          be denied outright.

21                     We then engaged in good faith  
22          negotiations in an attempt to allow  
23          plaintiffs to get some of the  
24          documents they wanted in, despite the  
25          late nature of the request.

1                   This document, along with some  
2                   others, which I suspect you're going  
3                   to ask about, did not even get raised  
4                   by plaintiffs until two weeks after  
5                   the initial late request. At that  
6                   point I think we were past the  
7                   original date of the deposition.

8                   So that's why this document was  
9                   not authorized.

10                  The alternative, as I informed  
11                  Mr. Gaddy when the request first came  
12                  across, was that we would just reject  
13                  the request -- the request outright at  
14                  the beginning because of the late  
15                  nature of it and because it would  
16                  force DEA and DOJ to duplicate the  
17                  work they had already done in  
18                  preparing Ms. Brennan for this  
19                  30(b)(6) deposition.

20                  Mr. Gaddy said he was willing  
21                  to negotiate a narrowly expanded  
22                  scope, which we did in good faith.  
23                  This document was not included. It  
24                  was made clear before we came into  
25                  this deposition that this document

1           would not be included.

2                       It was again made clear that  
3           any objections to the scope of this  
4           deposition should be raised with the  
5           special master in advance. Mr. Gaddy  
6           accepted all of that, and yet you're  
7           asking about this document.

8                       This is an issue that we've  
9           been over beforehand.

10                      MR. MOUGEY: This one page with  
11           two paragraphs on it, your position is  
12           that when Mr. Gaddy identified this  
13           document six weeks ago that's one page  
14           with two paragraphs, this was too  
15           burdensome for the DEA to prep its  
16           corporate witness on this morning, to  
17           have a complete and accurate record of  
18           what we're doing today?

19                      MR. JACO: My position is that  
20           as an initial matter -- sure, you want  
21           to take one page out of context?  
22           Mr. Gaddy didn't identify one page.  
23           One of the other documents he  
24           requested was a 300-page memorandum of  
25           agreement.

1                   So, first of all, it wasn't one  
2                   page. There were a lot of pages that  
3                   were requested. And I'll make the  
4                   point again, the entire request was  
5                   too late. The entire request came in  
6                   a week before the deposition --

7                   MR. MOUGEY: I don't need you  
8                   to say that again. You've said that  
9                   on the record. I understand that. I  
10                  appreciate, but I think you've said  
11                  that four or five times.

12                 So you're instructing the  
13                 witness on this one document, one  
14                 page, two paragraphs, from the DEA to  
15                 Walgreens, directly within the scope,  
16                 not to answer any questions today?

17                 MR. JACO: It is not directly  
18                 within the scope. I reject that  
19                 description. It is not within the  
20                 scope at all. The scope is narrow.

21                 The two topics that are in the  
22                 letter, the Touhy authorization, to  
23                 you clearly state -- read them if you  
24                 want. They've already been read into  
25                 the record, though. The topics are

1           the responsibilities of diversion  
2           investigators --

3                   MR. MOUGEY: I don't need you  
4           to read it back.

5                   MR. JACO: -- investigations.

6                   MR. MOUGEY: I don't need you  
7           to read it back.

8                   MR. JACO: Okay.

9   QUESTIONS BY MR. MOUGEY:

10           Q.       Ms. Brennan --

11                   MR. JACO: This is not within  
12           the scope. This document from 1988 is  
13           not within the scope.

14                   MR. MOUGEY: Okay. You've said  
15           that five times. I got it.

16   QUESTIONS BY MR. MOUGEY:

17           Q.       Ms. Brennan --

18                   MR. JACO: Sure.

19   QUESTIONS BY MR. MOUGEY:

20           Q.       -- today you've testified  
21           repeatedly about -- on behalf of the DEA  
22           about the role of DIs, diversion  
23           investigators, with SOMS, correct?

24                   MR. JACO: You can answer.

25                   THE WITNESS: Yes.

1 QUESTIONS BY MR. MOUGEY:

2 Q. And Ms. Swift asked you a  
3 number of questions today about diversion  
4 investigators approving SOMS policies at  
5 Walgreens, correct?

6 MS. SWIFT: Mischaracterizes  
7 the questioning and answers.

8 QUESTIONS BY MR. MOUGEY:

9 Q. You can answer, Ms. Brennan.

10 A. I've discussed, yes, what  
11 diversion investigators do when they're  
12 looking at suspicious order monitoring  
13 systems.

14 Q. Ms. Brennan, would you agree  
15 that it has always been the DEA's position  
16 that the submission of a -- to the DEA, after  
17 the fact, a report of suspicious orders  
18 without performing due diligence prior to  
19 shipment violates the law?

20 MR. JACO: Objection. Form.

21 You can answer.

22 THE WITNESS: I would agree  
23 that that would be, yes. It's always  
24 been DEA's position that an order is  
25 prior to a sale.

1 QUESTIONS BY MR. MOUGEY:

2 Q. And that due diligence has to  
3 be performed on a suspicious order prior to  
4 shipment, correct?

5 MR. JACO: Objection. Form.

6 THE WITNESS: Yes, that has  
7 been DEA's position.

8 QUESTIONS BY MR. MOUGEY:

9 Q. And that if due diligence is  
10 not performed on a specific order, suspicious  
11 order, prior to the shipment, that violates  
12 the Controlled Substance Act, correct?

13 MR. JACO: Objection. Form.  
14 Calls for a legal conclusion.

15 QUESTIONS BY MR. MOUGEY:

16 Q. You can answer, Ms. Brennan.

17 A. It would -- it would open the  
18 possibility to substances being diverted.

19 Q. Yes, ma'am.

20 And that a shipment of a  
21 suspicious order, prior to performing any due  
22 diligence, would violate the Controlled  
23 Substance Act and the regs thereunder,  
24 correct?

25 MR. JACO: Same objection.

1 THE WITNESS: Yes, that  
2 would -- it would be considered a  
3 violation. Due diligence should be  
4 done before an order -- the registrant  
5 should be determining whether to ship  
6 that order.

7 QUESTIONS BY MR. MOUGEY:

8 Q. Yes, ma'am.

9 And that has been the DEA's  
10 position from at least the late '80s,  
11 correct?

12 MR. JACO: Objection. Form.

13 THE WITNESS: That would be  
14 DEA's position for as long as I can  
15 recall.

16 QUESTIONS BY MR. MOUGEY:

17 Q. And you've been at the DEA for  
18 over 25 years, correct, Ms. Brennan?

19 A. Yes.

20 Q. And in your preparation for  
21 today to speak on behalf of the DEA, your  
22 preparation has indicated that shipping a  
23 suspicious order prior to performing due  
24 diligence has always been a violation of the  
25 law, correct?

1 MS. SWIFT: Objection. Calls  
2 for a legal conclusion.

3 MR. JACO: Objection. Form.

4 QUESTIONS BY MR. MOUGEY:

5 Q. It's okay, Ms. Brennan. You  
6 can answer.

7 A. Yes, that was DEA's position.  
8 That's been a violation.

9 Q. Ms. Brennan, you indicated  
10 several times on behalf of the DEA during  
11 your testimony today that the DEA does not  
12 approve any suspicious form -- any specific  
13 formulas for suspicious orders, correct?

14 A. Yes.

15 Q. And you were never, over the  
16 last two or three hours, asked to explain  
17 that by Walgreens.

18 Do you have an understanding on  
19 behalf of the DEA about why it does not  
20 approve specific formulas to identify  
21 suspicious orders?

22 MR. JACO: Objection. Scope.

23 She's here to testify on behalf  
24 of the DEA regarding diversion  
25 investigators' responsibilities.

1                   To the extent you want to reask  
2                   the question, you're welcome to.  
3                   Otherwise, she can answer in her  
4                   personal capacity.

5                   MR. MOUGEY: We just spent  
6                   three hours talking about suspicious  
7                   orders on behalf of -- or in the  
8                   context of audit reports and  
9                   investigations.

10                  All I'm simply asking is for  
11                  Ms. Brennan, on behalf of the DEA, to  
12                  explain why it does not approve  
13                  specific formulas to identify  
14                  suspicious orders.

15                  MS. SWIFT: Object to form.

16                  MR. JACO: Same objection.

17       QUESTIONS BY MR. MOUGEY:

18                  Q.       Ms. Brennan, you're familiar  
19                  with the DEA's diversion investigator manual,  
20                  correct?

21                  A.       Yes.

22                  Q.       And the diversion  
23                  investigator's manual and the contents  
24                  therein are kind of the foundation of what  
25                  diversion investigators do on a day-to-day

1 basis, correct?

2 A. Yes.

3 Q. And it gives you the tools or  
4 the information that an investigator needs  
5 when working for the DEA to fill its role,  
6 correct?

7 A. Yes.

8 Q. And in that manual, the DEA  
9 advises its diversion investigators that it  
10 does not approve specific formulas for  
11 suspicious orders, correct?

12 A. Yes.

13 Q. Now, do you have an  
14 understanding on behalf of the DEA,  
15 Ms. Brennan, why it is that the DEA does not  
16 approve specific formulas to identify  
17 suspicious orders?

18 MR. JACO: Same objection on  
19 scope. The witness can answer in her  
20 personal capacity.

21 MR. MOUGEY: I'm sorry, but  
22 this -- we just -- we just went  
23 through that the DEA advises its  
24 diversion investigators in its  
25 diversion manual that is the basis for

1           its audits and investigations not to  
2           approve specific formulas, and I'm  
3           simply asking why.

4                       I can't think of a question  
5           that's more directly within the scope  
6           of what we're here to talk about  
7           today.

8   QUESTIONS BY MR. MOUGEY:

9           Q.       Why is it that the DEA -- why  
10          is it that the DEA doesn't approve specific  
11          formulas?

12                   MR. JACO:   You can answer.

13                   THE WITNESS:   The regulation  
14          puts that on the registrant.   It  
15          states that the registrant has to  
16          devise and come up with a system to  
17          identify suspicious orders.   And  
18          they're the ones that know their  
19          customers.

20   QUESTIONS BY MR. MOUGEY:

21           Q.       Exactly.

22                   And the customers at Walgreens  
23          specifically are its own pharmacies, correct?

24           A.       Yes, according to the reports.

25           Q.       Yes, ma'am.

1                   And Walgreens is in the best  
2   position to know its own customers or its own  
3   pharmacies, correct?

4           A.       Yes.

5           Q.       Now, does the -- when the DEA  
6   performs an audit or investigation like the  
7   documents that we just went through, is there  
8   a typical number of investigators that  
9   perform those audits?

10                   I mean, is it two or three or  
11   four or five? I mean, is it -- what's the --  
12   just a range would be fine.

13           A.       Generally it's two. It can be  
14   more, but it's always got to be at least two  
15   employees.

16           Q.       So it's got to be at least two,  
17   but is it typically no more than three, four,  
18   five?

19           A.       Yes.

20           Q.       So have you been to a Walgreens  
21   distribution center?

22           A.       No.

23           Q.       Do you have any idea how many  
24   Walgreens distribution centers serve or  
25   distribute Schedule II opiates in the US?

1           A.       According to the report we  
2   looked at, it was two. I don't know if  
3   that's changed. I don't know currently.

4           Q.       So you would agree with me that  
5   there is a tremendous amount of shipments  
6   that come out of those distribution centers  
7   to Walgreen stores across the US?

8           MS. SWIFT: Object to form.

9           MR. JACO: Same objection.

10          THE WITNESS: No.

11   QUESTIONS BY MR. MOUGEY:

12          Q.       I'm sorry, go ahead,  
13   Ms. Brennan.

14          A.       Without looking at the actual  
15   sales, it's hard to say.

16          Q.       Yes, ma'am.  
17                    There's thousands of Walgreens,  
18   right?

19          MR. JACO: Objection. Form.

20          THE WITNESS: I know there's a  
21   lot.

22   QUESTIONS BY MR. MOUGEY:

23          Q.       So when these two, three, four,  
24   five investigators arrive at a distribution  
25   center, what is their ability to review data

1 or documents to verify what Walgreens'  
2 position is during those interviews?

3 MR. JACO: Objection. Form.  
4 You can answer.

5 THE WITNESS: A diversion  
6 investigator would have the ability to  
7 review any documents that they're --  
8 that they're required to keep  
9 according to the regulations.

10 QUESTIONS BY MR. MOUGEY:

11 Q. How long does a -- is there a  
12 standard or a typical time period that one of  
13 these audits or investigations take place? I  
14 mean, is it a few days? A week?

15 A. It can all be dependent upon  
16 the size of the company, you know, of the  
17 registrant, how many diversion investigators  
18 are there and how quickly they're able to  
19 provide records.

20 Q. So let's just take Walgreens,  
21 which is -- I would assume is one of the  
22 larger companies that the DEA dealt with in  
23 its role of performing an audit from the DIs,  
24 correct?

25 A. It would be probably among some

1 of the bigger distributors.

2 Q. So let's just say there's, you  
3 know, within the range, two to five. I mean,  
4 typically does an audit take a week?

5 A. I would say depending, it  
6 probably wouldn't take more than five days.

7 Q. All right. And beforehand,  
8 gathering any information, data, documents,  
9 how much time is spent reviewing prior to the  
10 audit?

11 A. Probably several days.

12 Q. And then post-audit, how much  
13 time is spent reviewing documents or  
14 submissions after the DIs are on site?

15 A. Again, it could take up to  
16 several days, compiling information, writing  
17 the report.

18 Q. So from pre-review of on-site  
19 inspection, on-site inspection and then post,  
20 a typical audit might be two to three weeks.

21 Is that fair, Ms. Brennan?

22 A. Yeah, given -- given the size,  
23 a bigger registrant that we consider, yes,  
24 that's fair to say.

25 Q. Are you familiar with the

1 phrase "self-regulation"?

2 A. Not overly. I mean, I can  
3 imagine what it means, but...

4 Q. And on behalf of the DEA, what  
5 is your understanding of what self-regulation  
6 means in the context of diversion  
7 investigators performing an audit?

8 A. I don't know that we've ever  
9 really used that term, but there -- but I --  
10 what I think you mean is that there's any --  
11 once -- once a person becomes a DEA  
12 registrant, the expectation is that they will  
13 understand and abide by the regulations that  
14 come with that registration.

15 Q. And that that registrant -- the  
16 DEA requires the registrant to fulfill its  
17 duties and obligations under the Controlled  
18 Substance Act, correct?

19 MS. SWIFT: Objection.

20 QUESTIONS BY MR. MOUGEY:

21 Q. Ms. Brennan?

22 A. Sorry. Yes.

23 Q. Now, for example, in this  
24 litigation, Walgreens has produced over --  
25 it's about 379,000 documents, or over a

1 million pages, in the course of this  
2 litigation.

3 When you've mentioned during  
4 the course of today that the DIs are  
5 reviewing documents, you're not talking about  
6 that scope of documents, correct?

7 MR. JACO: Objection. Form.

8 You can answer.

9 THE WITNESS: Most likely not.  
10 You'd be -- you'd be looking at the  
11 documents that pertain to the scope of  
12 your audit, and then whatever other  
13 documents that pertain to that  
14 registrant need to be reviewed.

15 QUESTIONS BY MR. MOUGEY:

16 Q. Well, out of the things that we  
17 covered today that Ms. Swift took you through  
18 were, for example, security, correct?

19 A. Yes.

20 Q. Cage/vault locks, correct?

21 A. Yes.

22 Q. Fencing, correct?

23 A. Yes.

24 Q. Those were a lot of the topics  
25 that Ms. Swift took you through today,

1 correct?

2 A. Yes, they were some of the  
3 topics.

4 Q. And reviewing tens of thousands  
5 of pages of suspicious order reports that  
6 Walgreens was generating, would that be  
7 something that the diversion investigators  
8 would review when performing an audit?

9 A. They would review -- they might  
10 ask us to see it just to know what system is  
11 in place, but then they would definitely, you  
12 know, be asking if the system was in place  
13 and then what -- what the registrant, what  
14 that system was to disclose.

15 Q. So if there were tens of  
16 thousands of pages of suspicious orders that  
17 a Walgreens distribution center had or  
18 corporate had, the DEA's role would be to  
19 simply confirm that it had a policy -- a SOMS  
20 policy and procedure in place, correct?

21 MR. JACO: Objection. Form.  
22 You can answer.

23 THE WITNESS: Yes, we were  
24 trained to make sure that they were  
25 following the regulations by having a

1 system in place.

2 QUESTIONS BY MR. MOUGEY:

3 Q. And at no point during the  
4 audit would the DEA's DIs, diversion  
5 investigators, would they ever review these  
6 tens of thousands of pages of suspicious  
7 orders and analyze those from a statistical  
8 perspective, correct?

9 MR. JACO: Objection. Form.

10 THE WITNESS: No, there was no  
11 requirement by DEA for DIs to do that.

12 QUESTIONS BY MR. MOUGEY:

13 Q. And registrants like Walgreens  
14 was aware that the diversion investigators,  
15 the DIs, were not reviewing the results of  
16 any suspicious order monitoring on an order-  
17 by-order-by-order basis, correct?

18 MS. SWIFT: Objection.

19 Foundation.

20 THE WITNESS: I can't say if  
21 Walgreens was aware of that or not.

22 QUESTIONS BY MR. MOUGEY:

23 Q. Let me rephrase that. It was  
24 probably a bad question.

25 The DEA's diversion

1 investigators would not analyze tens of  
2 thousands of pages of orders that were  
3 flagged by Walgreens and then sit with  
4 Walgreens employees as part of their  
5 investigation and ask questions about those  
6 orders, correct?

7 MR. JACO: Objection. Form.

8 You can answer.

9 THE WITNESS: No, probably not.

10 They would not -- you know, they would  
11 look to see that the system is in  
12 place.

13 QUESTIONS BY MR. MOUGEY:

14 Q. Now, you --

15 A. And may have looked at certain  
16 records, but...

17 Q. Same question. Would your  
18 diversion investigators, the DAs {sic}, would  
19 they review all or any due diligence  
20 associated with those orders that were  
21 flagged?

22 A. It's possible they would have  
23 looked to see that due diligence was being  
24 done and maybe picked -- looked at, you know,  
25 during the time frame of the audit, but

1 it's -- you know, I can't say that for sure  
2 without seeing reports.

3 Q. And when you say that they  
4 would have reviewed them, I think you started  
5 to say that they picked -- they picked  
6 examples to ensure that there was some due  
7 diligence being performed?

8 MR. JACO: Objection.

9 Misstates the witness' testimony.

10 You can answer.

11 THE WITNESS: I'm sorry, could  
12 you just repeat the question again?

13 QUESTIONS BY MR. MOUGEY:

14 Q. Sure.

15 There was never a comparison  
16 between all of the suspicious orders that  
17 were flagged by Walgreens to the due  
18 diligence files to ensure that due diligence  
19 was being performed on each and every  
20 suspicious order before it was shipped from  
21 the DEA, correct?

22 MR. JACO: Objection. Form.

23 You can answer.

24 THE WITNESS: I would say  
25 that's probably correct.

1 QUESTIONS BY MR. MOUGEY:

2 Q. Okay. As part of your  
3 preparation today to testify on behalf of the  
4 DEA, I think you looked at somewhere north of  
5 20 and south of 30 documents, correct?

6 A. Correct.

7 Q. And you saw the names on  
8 those -- the audits and the investigations of  
9 the folks that worked for the DEA, correct?

10 A. Yes.

11 Q. Do you know who those people  
12 are?

13 MR. JACO: Objection. Form.

14 You can answer.

15 THE WITNESS: I know them to be  
16 employees of DEA at the time that  
17 those investigations and reports were  
18 written.

19 QUESTIONS BY MR. MOUGEY:

20 Q. Are you familiar with their  
21 backgrounds?

22 A. No.

23 Q. Do your diversion  
24 investigators, "your" meaning the DEA, do  
25 they typically have statistical or computer

1 science backgrounds?

2 A. Diversion investigators have  
3 all kinds of backgrounds.

4 Q. Are you aware if any of the  
5 diversion investigators involved in this  
6 analysis have advanced degrees in any type of  
7 statistical analysis or computer science?

8 A. I would have no way of knowing  
9 that.

10 Q. So we started off this line of  
11 questioning talking about the -- about  
12 self-regulation.

13 The DEA, when performing its  
14 audit, relies heavily on the information  
15 given to it by the registrant, correct?

16 MR. JACO: Objection to the  
17 form.

18 You can answer.

19 THE WITNESS: Yes.

20 QUESTIONS BY MR. MOUGEY:

21 Q. And the investigators, given  
22 the time, the couple of weeks that they're on  
23 site and preparing a post-audit and the  
24 volume of information, have to rely on what  
25 the registrant relays, correct?

1 MR. JACO: Objection. Form.

2 THE WITNESS: Yes, because it's  
3 their records that were -- their  
4 information and records that they're  
5 responsible to have that we're  
6 reviewing.

7 QUESTIONS BY MR. MOUGEY:

8 Q. So, Ms. Brennan, if you would,  
9 please -- if you would go to, just to make it  
10 easy, Walgreens Defendant Exhibit 6.

11 MR. JACO: What number was  
12 that? I missed it?

13 MR. MOUGEY: 6.

14 THE WITNESS: Number 6?

15 QUESTIONS BY MR. MOUGEY:

16 Q. Yes, ma'am. It's dated May 17,  
17 2006.

18 Do you have that in front of  
19 you, Ms. Brennan?

20 A. Yes.

21 Q. In paragraph number 1, the DEA  
22 was communicating to Walgreens that the  
23 formulation utilized by the firm for  
24 reporting suspicious ordering of controlled  
25 substances was insufficient, correct?

1           A.       They're saying it didn't  
2   meet the require -- the regulation.

3           Q.       Yes, ma'am.

4                   And it was insufficient, the  
5   exact words on the page, right?

6           A.       Yes.

7           Q.       And that was as early as this  
8   letter as 2006, correct?

9           A.       Correct.

10                   And again, I would point out  
11   that this letter was not produced by DEA  
12   through our files.

13          Q.       Yes, ma'am.

14                   Would it surprise the DEA that  
15   Walgreens, as early as May of 2006, was  
16   discussing internally that the suspicious  
17   ordering report, based on the DEA factor, was  
18   inadequate?

19                   MR. JACO:  Objection.  Form.

20                   THE WITNESS:  I'm sorry, can  
21   you repeat that again?

22   QUESTIONS BY MR. MOUGEY:

23          Q.       Yes, ma'am.

24                   Would it surprise the DEA that  
25   by the middle of 2006, that Walgreens knew

1     that its suspicious ordering report relying  
2     on the DEA factor of 3 was inadequate?

3                     MR. JACO:   Same objection.

4                     THE WITNESS:  I'm not -- I'm  
5                     not sure.  They were never told to use  
6                     that.  They had to know, but also that  
7                     this -- this is -- more speaks to  
8                     utilizing noncontrolled substances in  
9                     with their system.

10    QUESTIONS BY MR. MOUGEY:

11                    Q.       I'm not sure I follow you.  
12    Help me out.

13                    When you say "noncontrolled  
14    substances" --

15                    A.       So their -- what it states  
16    here, that their system is that it's standard  
17    of deviation from a normal ordering pattern  
18    and groups, 25 customers, based on the number  
19    of noncontrolled and controlled substance  
20    prescriptions.

21                    Q.       Yes, ma'am.

22                    And I apologize if we're not --  
23    if I'm -- what the question I asked you:  
24    Would it surprise the DEA that by the  
25    mid-2006 Walgreens was aware that using a

1 formula based on the DEA factor of 3 in  
2 Appendix E was inadequate to identify  
3 suspicious orders for opiates?

4 MR. JACO: Objection. Form and  
5 foundation.

6 THE WITNESS: I'm not sure if I  
7 can answer DEA would be surprised by  
8 that information or not.

9 QUESTIONS BY MR. MOUGEY:

10 Q. Well, let's just stick with  
11 Exhibit 6.

12 Here the DEA is telling  
13 Walgreens that the formulation utilized by  
14 the firm for reporting suspicious ordering of  
15 controlled substances was insufficient,  
16 correct?

17 A. Yes.

18 Q. And the next several sentences  
19 relay what that formulation was, correct?

20 A. Yes.

21 Q. And that formulation, at least  
22 part of it, used the DEA factor of 3,  
23 correct?

24 A. Yes.

25 Q. And just so the jury

1 understands, when you say "the DEA factor of  
2 3," that means that the orders were grouped  
3 and then averaged, and if a subsequent order  
4 exceeded that by three times, it was flagged,  
5 correct?

6 MR. JACO: Objection. Form.  
7 Foundation.

8 THE WITNESS: As described  
9 here, that's what it's saying.

10 QUESTIONS BY MR. MOUGEY:

11 Q. Yes, ma'am.

12 And if we take this third  
13 sentence from the bottom of paragraph 1, it  
14 says, "Of these 25 customer groupings, the  
15 firm calculated the average order per item of  
16 each controlled substance. The firm then  
17 took the average and multiplied that figure  
18 by 3."

19 Correct?

20 A. Correct. But it also said the  
21 number of noncontrolled and controlled  
22 substances prescriptions.

23 Q. Yes, ma'am.

24 But the DEA factor of 3, the  
25 DEA was telling Walgreens that that was

1       insufficient, correct?

2                       MR. JACO:  Objection.

3                       Misstates the document.

4       QUESTIONS BY MR. MOUGEY:

5               Q.       I'm sorry.  Ms. Brennan,  
6       please?

7                       MR. JACO:  You can answer.

8                       THE WITNESS:  Without having  
9               the report, it's difficult to say what  
10              they were saying was insufficient  
11              here.

12      QUESTIONS BY MR. MOUGEY:

13              Q.       The plain language of the  
14      document, that the firm took the average and  
15      multiplied that figure by 3, whether it was  
16      controlled substances or noncontrolled  
17      substances, the DEA was advising Walgreens  
18      that that formula was insufficient as of  
19      2006, correct?

20                      MS. SWIFT:  Asked and answered  
21              several times.

22                      MR. JACO:  Objection.  Same  
23              objection.

24                      THE WITNESS:  I don't know that  
25              that can be stated here.  I don't

1 think there's enough information.

2 I believe DEA, when you're  
3 putting noncontrolled, that's negating  
4 your system for controlled substances.  
5 They were doing a combination here.

6 So I don't know if they were --  
7 what they were seeing was  
8 insufficient, if they were describing  
9 their program.

10 QUESTIONS BY MR. MOUGEY:

11 Q. All right. So I think -- so  
12 your concern about this paragraph is that it  
13 included both noncontrolled and controlled  
14 and then used the DEA factor of 3; is that --  
15 am I stating accurately what you're  
16 communicating?

17 MS. SWIFT: Object to the form.

18 MR. JACO: Same objection.

19 THE WITNESS: Yes.

20 QUESTIONS BY MR. MOUGEY:

21 Q. And that the DEA -- just -- I  
22 apologize if I made this more complicated  
23 than it needed to be, but the DEA was simply  
24 advising Walgreens in 2006 that its formula  
25 was insufficient, correct?

1 MS. SWIFT: Objection.

2 Mischaracterizes the document.

3 THE WITNESS: Something about  
4 its formula was insufficient.

5 QUESTIONS BY MR. MOUGEY:

6 Q. It's insufficient, right, as of  
7 2006.

8 And the DEA, as part of its  
9 standard operating procedures for diversion  
10 investigators, would then rely on Walgreens  
11 to correct that formula to identify orders of  
12 unusual size, frequency or pattern; correct,  
13 Ms. Brennan?

14 A. Based on what they said in this  
15 violation, then, yes.

16 MR. MOUGEY: I tell you what.  
17 Why don't we -- it's two o'clock  
18 Eastern time; it's 1 our time. Why  
19 don't we go ahead and break there and  
20 we'll come back.

21 How long, Ms. Brennan, to take  
22 a break and get something to eat and  
23 open those other documents? How much  
24 time do you need or would you like to  
25 take?

1 THE WITNESS: No more than  
2 30 minutes probably, if that's good  
3 for everybody else.

4 MR. MOUGEY: That's fine for  
5 me.

6 30 minutes works for everybody  
7 else?

8 MR. JACO: Works for me.

9 MR. MOUGEY: Great. Thanks.

10 VIDEOGRAPHER: We're going off  
11 the record. The time is 1:47.

12 (Off the record at 1:47 p.m.)

13 VIDEOGRAPHER: We're going back  
14 on record. The time is 2:36.

15 QUESTIONS BY MR. MOUGEY:

16 Q. Ms. Brennan, as -- the DEA  
17 would expect that its registrants to follow  
18 the guidance that it sends to each and every  
19 member, correct?

20 A. Yes.

21 Q. So when the DEA provides  
22 guidance to its registrants that the DEA  
23 would not approve specific formulas, you  
24 would expect its registrants to heed that  
25 advice, correct?

1 MR. JACO: Objection. Form.

2 THE WITNESS: I mean, I think  
3 the expectation would be that they  
4 should know DEA was not going to  
5 approve whatever system they put in  
6 place.

7 QUESTIONS BY MR. MOUGEY:

8 Q. Exactly.

9 So when the DEA advises the  
10 registrants that it shouldn't rely on rigid  
11 formulas when detecting suspicious orders of  
12 unusual size, frequency or pattern, the DEA  
13 would expect the registrants to follow that  
14 advice, correct?

15 MR. JACO: Objection. Form.

16 THE WITNESS: Yes, they --  
17 they're putting it out there as  
18 guidance so that they can know it's  
19 expected, and it usually clarifies the  
20 regulations.

21 QUESTIONS BY MR. MOUGEY:

22 Q. It ensures that each of the  
23 respondents follow that advice so we have the  
24 closed system, with opiates, continues to be  
25 one that minimizes diversion, correct?

1 MR. JACO: Objection. Form.

2 THE WITNESS: We do have a  
3 closed system of distribution, yes,  
4 and that's to prevent diversion, and  
5 the system to detect suspicious orders  
6 is one part of that.

7 QUESTIONS BY MR. MOUGEY:

8 Q. So when the DEA tells its  
9 registrants, "only send us orders that you  
10 have confirmed that are suspicious," you'd  
11 expect the registrants to follow that  
12 guidance, correct?

13 MS. SWIFT: Assumes facts not  
14 in evidence.

15 THE WITNESS: Yes, that would  
16 be the expectation.

17 QUESTIONS BY MR. MOUGEY:

18 Q. When the DEA sends its  
19 registrants guidance that suspicious orders  
20 shouldn't be shipped until due diligence was  
21 performed, the DEA would expect the  
22 registrants to follow that advice, that  
23 guidance, correct?

24 MS. SWIFT: Objection. Form.

25 MR. JACO: Objection. Form.

1 THE WITNESS: Yes, I believe  
2 that would be DEA's expectation.

3 QUESTIONS BY MR. MOUGEY:

4 Q. And if we look at a complete  
5 record of information that the DEA provided  
6 to its registrants over the course of almost  
7 two decades, there is example after example  
8 after example wherein the DEA provides ample  
9 guidance to the registrants on how to conduct  
10 business, correct?

11 MS. SWIFT: Assumes facts not  
12 in evidence.

13 MR. JACO: Form.

14 THE WITNESS: I'm aware that  
15 DEA has provided some guidance out to  
16 registrants.

17 QUESTIONS BY MR. MOUGEY:

18 Q. You're aware that there's  
19 guidance from the DEA going back to its  
20 registrants going back to the late '80s;  
21 correct, Ms. Brennan?

22 MS. SWIFT: Vague.

23 MR. JACO: Objection. Form.  
24 You can answer.

25 THE WITNESS: I'm aware that as

1           diversion investigators, we were  
2           trained -- like I'm not aware of a  
3           specific reference, but I know that's  
4           always been DEA's -- you know, staying  
5           consistent with the regulations.

6       QUESTIONS BY MR. MOUGEY:

7           Q.       Now, when the DEA performs its  
8           audits, it expects complete candor from the  
9           registrants, correct?

10          A.       Yes.

11          Q.       When the DEA performs its  
12          audits, it expects that its registrants  
13          provide an accurate universe of information  
14          to the auditors, correct?

15          A.       Yes. It should be what we've  
16          asked for, and there's a regulation for  
17          accurate records.

18          Q.       And when the DEA is performing  
19          its audit, it expects the registrants to  
20          provide all of the material information,  
21          correct?

22                   MR. MOUGEY: Objection. Form.

23                   THE WITNESS: The expectation  
24                   is that the information that DEA is  
25                   requesting that pertains to records

1           that a registrant has to keep will be  
2           provided.

3       QUESTIONS BY MR. MOUGEY:

4           Q.       And not just the records.  
5       Because today during Ms. Swift's questioning,  
6       you-all discussed conversations between  
7       auditors and management, correct?

8           A.       That's correct.

9           Q.       And in those conversations  
10       between auditors and management, and I mean  
11       registrants' management, the auditors would  
12       expect complete candor in those  
13       conversations, not just the records, correct?

14          A.       Yes.

15          Q.       And the auditors would expect  
16       complete truths during those conversations  
17       with the registrants' management, correct?

18                   MR. JACO:  Objection.  Form.

19                   THE WITNESS:  Yes.

20       QUESTIONS BY MR. MOUGEY:

21          Q.       You, in your personal capacity,  
22       you've been an auditor, diversion  
23       investigator, with the DEA for over 25 years,  
24       correct?

25          A.       Yes.

1 Q. In order for an auditor to do  
2 his or her job, it's paramount that they have  
3 complete and accurate information, correct?

4 MR. JACO: Objection. Form.

5 THE WITNESS: It's required by  
6 the regulations that they have  
7 complete and accurate, so -- so that's  
8 what we're looking for.

9 QUESTIONS BY MR. MOUGEY:

10 Q. And not just when you're  
11 looking for it. But in order to do -- in  
12 order for the DEA to do its job and to  
13 generate an audit, an investigative report,  
14 that is accurate, you have to have access to  
15 complete information, correct?

16 A. Yes, we'd need access to the  
17 information that's required to do the audit.

18 Q. The weight or importance of an  
19 audit wherein the auditor relies on  
20 half-truths or incomplete information is  
21 worthless, correct?

22 MR. JACO: Objection. Form.

23 THE WITNESS: I'd say it  
24 doesn't help to get an accurate audit,  
25 and it doesn't -- and it shows the --

1           the registrant isn't -- is not keeping  
2           complete and accurate records like  
3           they're required to.

4   QUESTIONS BY MR. MOUGEY:

5           Q.       And my questions that we just  
6   walked through, not only the records, but the  
7   information that's verbally relayed during  
8   the course of the audit, it is extremely  
9   important that that be complete and accurate  
10   as well, correct?

11                   MR. JACO:  Objection.  Form.

12                   Asked and answered.

13                   THE WITNESS:  Yes, we would  
14   rely on information in conversation to  
15   be as accurate as possible also.

16   QUESTIONS BY MR. MOUGEY:

17           Q.       So in performing an audit, the  
18   DEA would expect -- when asking for  
19   information, whether it be records or  
20   verbally, the DEA expects that it gets a  
21   complete picture, correct?

22                   MR. JACO:  Objection.  Asked  
23                   and answered.

24                   THE WITNESS:  Yes.

25

1 QUESTIONS BY MR. MOUGEY:

2 Q. So, for example, today, there's  
3 a series of 20 to 30 documents that you've  
4 been provided to answer questions today. You  
5 would expect, as the DEA representative, that  
6 you be allowed to review and see the universe  
7 of information for you to provide your  
8 testimony.

9 Based on all of these decades  
10 of experience, you'd expect that record to be  
11 complete today, correct?

12 MR. JACO: Objection.

13 Argumentative.

14 QUESTIONS BY MR. MOUGEY:

15 Q. You expect it to be complete,  
16 what you were shown today, Ms. Brennan?  
17 That's not a difficult question.

18 The DEA would -- as a  
19 representative of the DEA here today, you'd  
20 expect the documents that you were shown to  
21 be a complete and accurate picture of what  
22 transpired, correct?

23 MR. MOUGEY: Same objection.

24 THE WITNESS: I would expect by  
25 reading the reports of investigation

1           that they were, you know, documented  
2           by diversion investigators as they've  
3           been trained to do.

4   QUESTIONS BY MR. MOUGEY:

5           Q.       Yes, ma'am.

6                   And that's -- you're entitled  
7   to a complete and accurate picture of the  
8   information from the registrant, just as  
9   today when you're asked to be -- to review  
10  all of that information and review all of the  
11  material information, you would want to see  
12  everything, right?

13                   MR. MOUGEY:  Objection.  Same  
14  objection.

15                   THE WITNESS:  As a witness, I  
16  would expect to review what I've been  
17  authorized to.

18  QUESTIONS BY MR. MOUGEY:

19           Q.       You'd expect in order to do  
20  your job today representing the DEA, based on  
21  your 25 years of experience and as a  
22  corporate rep today, that you be allowed to  
23  review and opine on documents that are  
24  material to this analysis today, correct?

25                   MR. JACO:  Objection.  Asked

1 and answered. Argumentative.

2 THE WITNESS: Again, I would  
3 expect to be answering on what I was  
4 authorized to testify on.

5 QUESTIONS BY MR. MOUGEY:

6 Q. That's not what I've --

7 MR. MOUGEY: And, Mr. Jaco, I'd  
8 appreciate if you just stick with the  
9 objection to form, the argumentative  
10 and asked and answered. If you would  
11 just stick to the objection to form,  
12 that'd be great.

13 QUESTIONS BY MR. MOUGEY:

14 Q. So let's -- let me make sure I  
15 understand.

16 In your capacity today as the  
17 corporate representative for the DEA and  
18 asked to review a series of documents, you  
19 would expect to review a complete picture of  
20 those documents reflecting the DEA's audit  
21 work with Walgreens, correct?

22 MR. JACO: Objection. Form.

23 MS. SWIFT: Objection.

24 THE WITNESS: Again, I would  
25 expect to be reviewing what I was

1 authorized to speak on.

2 QUESTIONS BY MR. MOUGEY:

3 Q. And you'd expect what you were  
4 authorized to speak on to be a complete and  
5 accurate picture, correct?

6 MS. SWIFT: Objection. Asked  
7 and answered. Argumentative.  
8 Foundation.

9 MR. JACO: Same objections.

10 QUESTIONS BY MR. MOUGEY:

11 Q. You can answer, Ms. Brennan.

12 A. I would -- again, I did not --  
13 I was told what I would be. I was not part  
14 of what would be reviewed and asked. I was  
15 just provided testimony that I could provide.

16 Q. I'm sorry, I didn't mean to  
17 interrupt you.

18 When Ms. Swift just spent three  
19 hours asking you about alarms and security  
20 and locks, you would expect Ms. Swift to put  
21 a complete and accurate picture of documents  
22 in front of you, just as your auditors would  
23 expect a complete and accurate picture from  
24 the registrants when performing the audit,  
25 correct?

1 MS. SWIFT: Object to the  
2 mischaracterization of the process.

3 MR. JACO: Same objection.

4 QUESTIONS BY MR. MOUGEY:

5 Q. Ms. Brennan, you would expect  
6 that Walgreens put a complete and accurate  
7 picture of the applicable documents in front  
8 of you today, not just bits and pieces;  
9 correct, Ms. Brennan?

10 MS. SWIFT: Same objection.

11 Asked and answered.

12 MR. JACO: Same objection.

13 THE WITNESS: When we were  
14 discussing the controlled -- the  
15 scheduled investigations, the report  
16 was there, so that was the -- the  
17 report of investigation.

18 QUESTIONS BY MR. MOUGEY:

19 Q. If there are documents that  
20 reflect internal conversations at Walgreens  
21 discussing meetings with the DEA, you would  
22 want to be shown those, would you not,  
23 Ms. Brennan, in your capacity as a DEA rep?

24 MR. JACO: Objection. Form.  
25 Argumentative.

1 THE WITNESS: Again, my  
2 understanding is that there is very  
3 specific things that I was told I  
4 could testify on, so I have to rely on  
5 my attorneys to -- that they're going  
6 to provide the information needed.

7 QUESTIONS BY MR. MOUGEY:

8 Q. I understand, and you've given  
9 me that answer about what was approved and  
10 what Mr. Jaco approved and what the DOJ  
11 approved.

12 What I'm asking you is: If  
13 there are documents that reflect internal  
14 conversations at Walgreens memorializing  
15 communications with the DEA, you'd expect to  
16 be shown those, would you not?

17 MS. SWIFT: Same objections.

18 Asked and answered several times.

19 MR. JACO: Agreed.

20 QUESTIONS BY MR. MOUGEY:

21 Q. We can continue down this road.  
22 I'm asking you in your capacity as an  
23 auditor, 25 years with the DEA, as the  
24 corporate representative today, would you  
25 expect to be shown a complete and accurate

1 picture of the information between Walgreens  
2 and the DEA?

3 MS. SWIFT: Object to the  
4 mischaracterization of the Touhy.

5 QUESTIONS BY MR. MOUGEY:

6 Q. Yes or no, Ms. Brennan.

7 MR. JACO: Objection. Asked  
8 and answered.

9 THE WITNESS: Again, I have to  
10 go with I would expect to be shown  
11 what I'm allowed to testify on.

12 QUESTIONS BY MR. MOUGEY:

13 Q. So it's not important to you as  
14 a DEA corporate rep today to have access to  
15 complete information?

16 MR. JACO: Objection.

17 Misstates the witness' testimony.

18 MR. MOUGEY: I'm not asking  
19 what Mr. Jaco's approved or hasn't  
20 approved, because we all know from how  
21 we started this off that you weren't  
22 approved to testify on an \$80 million  
23 fine, you weren't approved to testify  
24 on the diversion manual, the Chemical  
25 Handler's Manual, there's all kinds of

1 documents you haven't been approved to  
2 testify on.

3 QUESTIONS BY MR. MOUGEY:

4 Q. For you to give a complete and  
5 accurate testimony today as a corporate  
6 representative from Walgreens {sic}, wouldn't  
7 you expect to be given the material  
8 information from Walgreens?

9 I'm not asking you from the  
10 DOJ. I'm asking you from Walgreens.

11 Would you have expected  
12 Ms. Swift to put in front of you documents  
13 that give you the complete story?

14 MS. SWIFT: Objection.

15 MR. JACO: Objection. Asked  
16 and answered. Argumentative.

17 THE WITNESS: I'll be honest, I  
18 didn't know what to expect what I was  
19 going to be asked today. I knew a  
20 little bit of what I was -- but I  
21 didn't know what I would be.

22 QUESTIONS BY MR. MOUGEY:

23 Q. So, for example, if Walgreens  
24 memorialized conversations with the DEA in  
25 2006 that the DEA believes that the

1 suspicious ordering report is inadequate,  
2 they specifically did not like the DEA factor  
3 and would like to know how we determined it.  
4 They would like a better description of the  
5 formula used to determine the suspicious  
6 order.

7                   The explanation of the formula  
8 is, all stores are put into a group of 25  
9 based on the amount of daily prescribed --  
10 prescriptions filled. The average is then --  
11 the orders to the DC on each group of 25.  
12 The result is average order, times DEA  
13 factor, equals trigger. They said the  
14 formula should be based on size, pattern and  
15 frequency.

16                   As the DEA corporate  
17 representative, would you want to know that  
18 in 2006 the DEA told Walgreens that the  
19 formula should be based on size, pattern and  
20 frequency?

21                   MR. JACO: Objection. This --  
22                   Ms. Swift -- excuse me. Ms. Brennan  
23 is the DEA corporate representative on  
24 a select set of narrow topics that  
25 were authorized. This is going far

1           afield from those topics.

2                   You've asked and answered the  
3           question numerous times.

4   QUESTIONS BY MR. MOUGEY:

5           Q.       Would you want to know that the  
6   DEA said to Walgreens that the formula should  
7   be based on size, frequency and pattern?

8                   MS. SWIFT:   And lodge the same  
9           objections.

10                  MR. JACO:   Objection.

11                  MS. SWIFT:   And to the extent  
12           that this continues to go on, we're  
13           going to seek more time with the  
14           witness.

15   QUESTIONS BY MR. MOUGEY:

16           Q.       Would you want to know,  
17   Ms. Brennan, as the DEA representative, that  
18   the DEA told Walgreens that the formula  
19   should be based on size, frequency and  
20   pattern, and that the DEA factor was  
21   inadequate; yes or no?

22                  MR. JACO:   Objection.

23                  Objection.   Argumentative.   Outside  
24           the scope of the notice of deposition  
25           as well as the Touhy authorization.

1 MR. MOUGEY: Outside the scope.

2 We spent three hours talking about  
3 suspicious order monitoring, Mr. Jaco.

4 QUESTIONS BY MR. MOUGEY:

5 Q. Ms. Brennan, would you want to  
6 know --

7 MR. JACO: It's Mr. Jaco, and  
8 it's outside the scope.

9 QUESTIONS BY MR. MOUGEY:

10 Q. Would you want to know,  
11 Ms. Brennan -- don't worry about what some  
12 lawyer in DC is telling you.

13 Would you want to know -- as  
14 the auditor with all of the decades of  
15 experience, would you want to know that the  
16 DEA told Walgreens that the formula should be  
17 based on size, pattern and frequency and that  
18 the DEA factor was inadequate? Would you  
19 want to know that; yes or no?

20 MR. JACO: Objection. You  
21 cannot instruct the witness to ignore  
22 her attorney and her counsel.

23 If you're going to continue  
24 down this track, we'll just stop, and  
25 we'll move for a protective order with

1 the special master.

2 This has all been negotiated  
3 beforehand, and your attempt to use  
4 this deposition to expand the scope of  
5 a negotiated and authorized deposition  
6 is improper.

7 QUESTIONS BY MR. MOUGEY:

8 Q. Would you want to know,  
9 Ms. Brennan, if there was material  
10 information about conversations between the  
11 DEA and Walgreens as part of your opinion  
12 today?

13 MR. JACO: Objection. Asked  
14 and answered. Argumentative.

15 She's answered the question  
16 numerous times.

17 QUESTIONS BY MR. MOUGEY:

18 Q. I'm not asking what your lawyer  
19 told you.

20 As the auditor, as the DEA rep,  
21 was it important to you?

22 MR. JACO: Objection.

23 Ms. Brennan is not testifying as an  
24 auditor. She is testifying on  
25 specific audits that were authorized.

1 MR. MOUGEY: Actually, if you  
2 look at the Touhy request, and we can  
3 pull it out, Ms. Brennan is here to  
4 testify today about the -- about the  
5 audit process and the scope of the  
6 audit investigation, which includes  
7 suspicious orders.

8 QUESTIONS BY MR. MOUGEY:

9 Q. So I'm asking, as part of that  
10 capacity here today, as a representative of  
11 the DEA, would you want to know about  
12 conversations between Walgreens and the DEA  
13 wherein Walgreens was told that the formula  
14 should be based on size, frequency and  
15 pattern, and that the DEA factor of 3 was  
16 inadequate? Would you want to know that?

17 MS. SWIFT: Objection. Assumes  
18 facts not in evidence.

19 MR. JACO: Objection. Asked  
20 and answered.

21 MR. MOUGEY: I'll agree that  
22 it's --

23 MR. JACO: Authorized to  
24 testify --

25 MR. MOUGEY: I agree --

1 MR. JACO: -- on the role  
2 diversion investigators. You're  
3 asking about her role as a witness  
4 here today. Those are two very  
5 different things.

6 So the role of diversion  
7 investigators when conducting  
8 scheduled investigations is one thing,  
9 but her role as a witness and what  
10 information is provided to her by  
11 Walgreens is not an appropriate line  
12 of questioning, especially when it's  
13 been asked repeatedly.

14 QUESTIONS BY MR. MOUGEY:

15 Q. Would you agree today,  
16 Ms. Brennan, that part of the responsibility  
17 of a diversion investigator when performing  
18 cyclic investigations of pharmacy  
19 distribution centers includes knowing whether  
20 or not a SOMS policy was in place?

21 A. You're asking if -- knowing if  
22 we go out, if there's a suspicious order  
23 monitoring system in place?

24 Q. Yes, ma'am.

25 Is it your responsibility --

1 I'm sorry.

2 As the corporate representative  
3 today, testifying or opining about the  
4 responsibilities of diversion investigators  
5 when performing cyclic investigations of  
6 pharmacy distribution centers, would you  
7 want -- was part of that audit that a SOMS  
8 policy was in place?

9 MS. SWIFT: Form.

10 THE WITNESS: Yes, it was to  
11 check that there was a system in  
12 place.

13 QUESTIONS BY MR. MOUGEY:

14 Q. And as part of your testimony  
15 today about the responsibility of diversion  
16 investigators, would you think it was  
17 important, if there are records and  
18 memorializations of conversations about SOMS  
19 policies, that those be provided to you?

20 MR. JACO: Objection. Asked  
21 and answered.

22 QUESTIONS BY MR. MOUGEY:

23 Q. You can answer, Ms. Brennan.

24 A. Depends on the context, I  
25 guess. I wasn't asked about that, and I

1     wasn't testifying -- I wasn't even testifying  
2     on the 2006 scheduled investigation.

3             Q.       Give me one second,  
4     Ms. Brennan, just...

5                     Ms. Brennan, you provided  
6     testimony today in response to questions by  
7     Ms. Swift about the 2006 investigation,  
8     correct?

9             A.       On what we -- what appeared to  
10    be a letter of admonition in response to that  
11    investigation.

12            Q.       Yes, ma'am.

13                    Wherein Walgreens was told by  
14    the DEA in 2006 that the formulas -- the  
15    formulation utilized by the firm was  
16    insufficient, that May 17, 2006, correct?

17            A.       Correct.

18            Q.       And what I'm asking you is, if  
19    there are related documents that memorialize  
20    conversations between Walgreens and DEA,  
21    wouldn't you expect Walgreens to show that to  
22    you?

23                    MS. SWIFT:  Objection.

24                    Mischaracterizes.

25                    MR. JACO:  Objection.  Asked

1 and answered.

2 If we're going to continue down  
3 this track and you're going to  
4 continue abusing the witness, we'll  
5 move for a protective order.

6 If you have something you want  
7 to show her, show her the document,  
8 but you just keep asking her the same  
9 question over and over again. We're  
10 not getting anywhere.

11 (Brennan 30(b)(6) Plaintiff's  
12 Exhibit 9 marked for identification.)

13 QUESTIONS BY MR. MOUGEY:

14 Q. All right. Ms. Brennan, would  
15 you please open folder number 9.

16 The document you have in front  
17 of you is dated 5/27/2006; correct,  
18 Ms. Brennan?

19 A. Yes.

20 Q. And this is an internal  
21 Walgreens memorandum. If you look under the  
22 section titled 1301.74(b), Walgreens is  
23 discussing the fact that the DEA told  
24 Walgreens that the DEA factor was inadequate,  
25 that the formula should be based on size,

1 pattern and frequency, correct?

2 MR. JACO: Objection. Scope.

3 The witness can answer in her  
4 personal capacity, but not on behalf  
5 of DEA.

6 QUESTIONS BY MR. MOUGEY:

7 Q. You can answer, Ms. Brennan.

8 A. Yes.

9 Q. And, Ms. Brennan, you were  
10 saying "yes" to the fact that it appears that  
11 Walgreens was told by the DEA that its  
12 formula using the DEA factor was inadequate,  
13 and instead the formula should be based on  
14 size, pattern and frequency, correct,  
15 Ms. Brennan?

16 A. That's what it appears this is  
17 saying.

18 MR. JACO: Just a standing  
19 objection that any answer she gives on  
20 this document are in her personal  
21 capacity.

22 QUESTIONS BY MR. MOUGEY:

23 Q. And in your 25 years as an  
24 auditor with Walgreens -- I'm sorry, with  
25 the -- in your 25 years of experience as an

1 auditor with the DEA, if you were performing  
2 this audit, you'd want to see what that  
3 internal memorialization was, correct?

4 MR. JACO: Objection. Form.

5 THE WITNESS: Probably -- well,  
6 if you were doing an audit, you would  
7 probably never see the internal  
8 documents.

9 QUESTIONS BY MR. MOUGEY:

10 Q. If you're having conversations  
11 with Walgreens post-May 17, 2006 letter and  
12 you were asking what Walgreens -- what their  
13 interpretation of that conversation was, and  
14 there's an internal memo discussing that  
15 conversation, as an auditor, you'd want to  
16 know what Walgreens' interpretation of that  
17 conversation was, correct?

18 MR. JACO: Objection. Form.

19 You can answer.

20 THE WITNESS: That would pretty  
21 much be outside the scope of what we'd  
22 be looking at.

23 QUESTIONS BY MR. MOUGEY:

24 Q. Well, you don't have the 2006  
25 audit, and no one can find the 2006 audit,

1 correct? The report?

2 A. That's what I've been told.

3 Q. Yes, ma'am.

4 And here you have a  
5 memorialization of what was discussed during  
6 the missing audit.

7 Wouldn't you expect as a  
8 25-year auditor for Walgreens to say, ah, we  
9 can't find the report, but I've got a  
10 memorialization of that conversation?

11 Ms. Brennan, it's right here.  
12 You'd expect them to take a consistent  
13 position with this memorialization, would you  
14 not?

15 MR. JACO: Objection. Form.  
16 Argumentative.

17 QUESTIONS BY MR. MOUGEY:

18 Q. It's part of the registrant's  
19 duty of candidness, complete, accurate  
20 information.

21 You'd expect Walgreens to tell  
22 you about this memorialization, correct?

23 MR. JACO: Same objection.

24 THE WITNESS: I would expect to  
25 know what they were doing to make the

1           corrections. That would be follow-up  
2           as a diversion investigator.

3       QUESTIONS BY MR. MOUGEY:

4           Q.       But in order to know what the  
5       corrections were, you'd want to know what the  
6       conversation -- this is an easy question.  
7       Come on.

8                   As an auditor, you'd definitely  
9       want to know, what were the conversations.  
10      If you can't find the audit report, the  
11      conversation's memorialized. How would you  
12      not want to know it?

13                   MR. JACO: Objection. Asked  
14           and answered.

15      QUESTIONS BY MR. MOUGEY:

16           Q.       You can answer.

17           A.       As an auditor, I'd expect to  
18      see the changes made the next time we went  
19      back.

20           Q.       And in order to know what the  
21      changes made because the audits were missing,  
22      you'd expect someone to show you the internal  
23      memorialization, correct? Or at least be  
24      consistent?

25           A.       I'd expect --

1 MR. JACO: Objection. Asked  
2 and answered.

3 Go ahead.

4 THE WITNESS: I would -- I  
5 would expect that whoever we were  
6 dealing with at the company would be  
7 explaining how they were now -- how --  
8 explaining their new system, or if  
9 they changed, made changes, what that  
10 was.

11 QUESTIONS BY MR. MOUGEY:

12 Q. And that those changes were  
13 based off of the previous conversation,  
14 correct, Ms. Brennan?

15 MR. JACO: Objection. Form.

16 THE WITNESS: Well, the changes  
17 would have been based off the  
18 conversation that DEA had during their  
19 scheduled investigation.

20 QUESTIONS BY MR. MOUGEY:

21 Q. Ms. Brennan, in your capacity  
22 today as the DEA representative on the  
23 audits, you would expect to be able to rely  
24 on basic documents like the Chemical  
25 Handler's Manual, correct?

1 MR. JACO: Objection. Form.

2 THE WITNESS: I mean, they were  
3 given to -- to the registrants to help  
4 them guide them with the regulations.

5 QUESTIONS BY MR. MOUGEY:

6 Q. Right.

7 But you would expect that that  
8 Chemical Handler's Manual, because it was  
9 provided to the registrants and because we  
10 talked about it today, you would expect that  
11 one of the approved documents would be the  
12 Chemical Handler's Manual, correct?

13 MR. JACO: Objection.

14 Argumentative.

15 She's not here to testify about  
16 the approved documents. That's not  
17 part of her process or responsibility.

18 If you want to argue about the  
19 approved documents, we can go argue  
20 about the approved documents before  
21 the special master. This line of  
22 questioning is inappropriate for the  
23 witness.

24 QUESTIONS BY MR. MOUGEY:

25 Q. You would expect -- you would

1 expect, Ms. Brennan, in your capacity today,  
2 that -- not to be given a snippet of the  
3 Chemical Handler's Manual to testify about,  
4 correct?

5 MR. JACO: Objection.

6 Mischaracterizes the preparation.

7 Mischaracterizes testimony already  
8 given.

9 MR. MOUGEY: Just object to the  
10 form, please, Mr. Jaco.

11 MR. JACO: It's Mr. Jaco, for  
12 the third time today.

13 MR. MOUGEY: Tab 3 in the --

14 MR. JACO: The evidence  
15 track --

16 MR. MOUGEY: Exhibit 3.

17 MR. JACO: All right. Let's --

18 QUESTIONS BY MR. MOUGEY:

19 Q. Exhibit 3. You were given E-3.  
20 E-3 is a small piece, one page, of the  
21 Chemical Handler's Manual, correct?

22 A. That's correct.

23 Q. The Chemical Handler's Manual  
24 covers List I chemicals, does it not?

25 A. Yes.

1 Q. Does List I chemicals -- do the  
2 List I chemicals in the Chemical Handler's  
3 Manual include opiates?

4 A. No.

5 Q. So this formula that Ms. Swift  
6 walked you through in Defendant's Exhibits  
7 Number 3, with paragraphs numbered 1, 2, 3,  
8 4, 5 with that formula, none of that applies  
9 to opiates in the Chemical Handler's Manual;  
10 correct, Ms. Brennan?

11 MS. SWIFT: Objection.

12 MR. JACO: Objection. Form.

13 THE WITNESS: Yes, it's my  
14 belief that whatever's in the Chemical  
15 Handler's Manual pertains to listed  
16 chemicals.

17 QUESTIONS BY MR. MOUGEY:

18 Q. And the listed chemicals do not  
19 include opiates, correct?

20 A. The listed chemicals do not  
21 include controlled substances.

22 Q. So when you look at Defendant's  
23 Exhibit Number 3, one page of the Chemical  
24 Handler's Manual, that refers to List I  
25 chemicals containing items stocked by the

1 distribution center.

2 Do you see that?

3 And if you need to take a  
4 minute to get there, that's fine.

5 A. Yes, it's my understanding that  
6 since this is in the Chemical Handler's  
7 Manual, this is pertaining to list -- List I  
8 chemicals.

9 Q. And you see the paragraph 1 --  
10 and I'll just read it. "Add purchase  
11 quantities for the past 12 months for all  
12 customers within the same distribution center  
13 and for customer type" -- it's hospital,  
14 pharmacy or other -- "for any List I chemical  
15 containing items stocked by the distribution  
16 center."

17 Do you see that?

18 A. Yes.

19 Q. So the entire formula for E-3  
20 is premised upon List I chemicals that does  
21 not even include opiates?

22 MR. JACO: Objection. Form.

23 THE WITNESS: That's the  
24 understanding, yes.

25 MS. SWIFT: How long have we

1           been on the record?

2                   VIDEOGRAPHER: Total time or  
3           specific to plaintiffs?

4                   MS. SWIFT: Specific to  
5           plaintiffs.

6                   VIDEOGRAPHER: Plaintiffs have  
7           been on for 1:26.

8                   MS. SWIFT: I believe that  
9           means we've got four minutes left.

10                  MR. JACO: No, I think they  
11           have 34 minutes left. I believe we  
12           did four and two.

13                  MS. SWIFT: Let me check. I  
14           thought it was an hour and a half.

15                  MR. MOUGEY: I think -- I think  
16           the -- I thought it was either two or  
17           two and a half. That must be --

18                  MR. JACO: It's two. It's four  
19           and two. We changed it to two in the  
20           Touhy authorization that went out to  
21           plaintiffs.

22                  MS. SWIFT: We accepted four on  
23           the understanding of an hour and a  
24           half. So we got knocked 30 minutes of  
25           the hour and a half we had originally

1 negotiated.

2 MR. JACO: I don't believe so.

3 There was a -- I'd have to go back and  
4 pull up the e-mail chain, but in the  
5 e-mail I offered -- came back and  
6 offered four and two, and everyone  
7 agreed to that.

8 MS. SWIFT: We'll check it.

9 Thanks, Andrew.

10 QUESTIONS BY MR. MOUGEY:

11 Q. Ms. Brennan, in your  
12 preparations for today, were you made aware  
13 that Walgreens created an algorithm in 2008  
14 that identified orders of unusual size,  
15 frequency or pattern?

16 A. Just as was reported in --  
17 under suspicious orders in some of the  
18 reports.

19 Q. Have you ever heard of a  
20 gentleman from Walgreens, in preparation for  
21 today, the name of Wayne Bancroft?

22 A. No.

23 Q. Did anyone advise you that  
24 Walgreens had a formula based on size,  
25 frequency or pattern that it was running

1 internally for a period of years post-2008  
2 until 2012 in the background?

3 MR. JACO: Objection. Form.

4 Assumes facts not in the record.

5 QUESTIONS BY MR. MOUGEY:

6 Q. Have you seen any evidence  
7 preparing for today that Walgreens had a  
8 formula identifying suspicious orders based  
9 on size, frequency or pattern, other than the  
10 formula using the DEA factor?

11 A. Some of the -- the reports  
12 documented suspicious order monitoring  
13 programs that were not using this factor.

14 Q. And what were those reports  
15 that you saw?

16 A. They were some of the ones we  
17 went over this morning. I don't remember  
18 offhand. They were after -- after the 2006  
19 report.

20 Q. When you say "this morning,"  
21 you mean in response to Ms. Swift's  
22 questioning?

23 A. Yes, those would be the reports  
24 I'm referring to.

25 Q. Okay. So are you referencing

1 the different systems in '13 to '14 and '15,  
2 2013, '14 and '15, that Ms. Swift took you  
3 through?

4 A. Yes, I believe that was them.

5 Q. Were you aware that Walgreens  
6 had a formula identifying orders of unusual  
7 size, frequency or pattern that it developed  
8 in 2008 and were running until at least 2012?

9 MR. JACO: Objection.

10 You can answer.

11 THE WITNESS: No, I was not.

12 QUESTIONS BY MR. MOUGEY:

13 Q. So you were not aware that  
14 Walgreens was identifying orders that were  
15 suspicious based on size, frequency of  
16 pattern, 10,000 orders on a regular basis,  
17 that it did not report to the DEA?

18 MS. SWIFT: Objection. Assumes  
19 facts not in evidence.

20 MR. JACO: Objection.

21 MR. MOUGEY: What is your  
22 objection, Mr. Jaco? Help me  
23 understand what your objection is to  
24 that question.

25 MR. JACO: It's assuming facts

1 not in record.

2 MR. MOUGEY: I'm just -- I know  
3 I'm definitely assuming not facts not  
4 in the record. I'll agree with you on  
5 that.

6 QUESTIONS BY MR. MOUGEY:

7 Q. What I'm asking is did anyone  
8 tell you or show you, Ms. Brennan, that  
9 Walgreens was running an algorithm  
10 identifying orders of unusual size, frequency  
11 or pattern, that was identifying in some  
12 instances 10,000 orders a month that it  
13 didn't report to the DEA?

14 MS. SWIFT: Mischaracterizes  
15 the record. Assumes facts not in  
16 evidence.

17 QUESTIONS BY MR. MOUGEY:

18 Q. Anybody tell you that?

19 MR. JACO: Same objection.

20 THE WITNESS: No.

21 QUESTIONS BY MR. MOUGEY:

22 Q. Did anybody show you the  
23 formula?

24 MR. JACO: Objection. Form.

25 THE WITNESS: No.

1 MR. MOUGEY: And I'll go ahead  
2 and turn it over to Ms. Swift, and  
3 I'll reserve whatever I have left.

4 Thank you very much,  
5 Ms. Brennan.

6 MS. SWIFT: And how much does  
7 he have left, assuming two hours?

8 MR. MOUGEY: I don't know,  
9 Kate. I left my stopwatch at home.

10 MS. SWIFT: I wasn't asking  
11 you, Peter. Sorry, I was asking Dan.

12 VIDEOGRAPHER: Stand by.

13 MS. SWIFT: Sorry.

14 VIDEOGRAPHER: Plaintiffs'  
15 total time is 1:32.

16 MS. SWIFT: Thank you.

17 REDIRECT EXAMINATION

18 QUESTIONS BY MS. SWIFT:

19 Q. Ms. Brennan, I would like to  
20 start right where plaintiffs' counsel left  
21 off.

22 If you would, please, turn to  
23 Exhibit 9, which is the May 2009 Perrysburg  
24 report that we talked about this morning.

25 A. Okay.

1           Q.       And take a look at page 18, if  
2   you would, please. And we looked at this  
3   before.

4                   Do you see paragraph number 2  
5   on page 18 of the 2009 Perrysburg report?

6           A.       Yes.

7           Q.       It says, "Suspicious orders are  
8   sent from the corporate office to DEA as well  
9   as the distribution center." And then it  
10   says, "Mr. Kneller" -- that's the Walgreens  
11   distribution center manager -- "was unaware  
12   of what measures the corporate office takes  
13   in investigating suspicious orders, stating,  
14   'this process is currently under review at  
15   their corporate office.' Kneller identified  
16   Dan Coughlin, DEA compliance officer, as the  
17   individual who will draft final policy in  
18   CM 15, the published procedures of Walgreen  
19   Company."

20                   Did I read that correctly?

21           A.       Yes.

22           Q.       Do you know whether the  
23   diversion investigator who conducted this  
24   2009 investigation contacted Mr. Coughlin and  
25   talked to him about the process that was

1 under review for monitoring suspicious orders  
2 at the corporate office?

3 A. No, I don't know if that  
4 conversation occurred.

5 Q. But if a diversion investigator  
6 had wanted to do that, that would have been  
7 something that he or she could have done?

8 A. Yes.

9 MR. JACO: Objection. Form.

10 THE WITNESS: Sorry. Yes.

11 QUESTIONS BY MS. SWIFT:

12 Q. And you see here Mr. Kneller is  
13 not only reporting to the DEA that the  
14 process for monitoring suspicious orders is  
15 currently under review, but he's very candid.  
16 He says, I don't really know what they do;  
17 you'd need to talk to Mr. Coughlin.

18 Is that fair?

19 A. Yes, it says here that he  
20 stated he was unaware of what measures the  
21 corporate office takes.

22 Q. Okay. Now I'd like to go back  
23 to Exhibit 24.

24 This is the October 2009  
25 memorandum from Joseph Rannazzisi, correct?

1 A. Yes.

2 Q. Mr. Rannazzisi sent this 2009  
3 memo to all diversion program managers, among  
4 others, right?

5 A. Yes.

6 Q. In 2009, you were a diversion  
7 program manager; is that true?

8 A. No.

9 Q. What were you in 2009?

10 A. October of 2009, I believe I  
11 was a group supervisor.

12 Q. This memo from October of 2009  
13 also went to diversion group supervisors,  
14 correct? You see that on the first page?

15 A. Yes.

16 Q. Did you receive this memo from  
17 Mr. Rannazzisi in October of 2009?

18 A. Yes.

19 Q. Do you remember receiving it?

20 A. Yes, I remember.

21 Q. Did Mr. Rannazzisi or the  
22 Office of Diversion Control provide any  
23 training to the group supervisors and the  
24 others about this October 2009 memo around  
25 that time?

1           A.       I don't recall specifically  
2   around this time.

3           Q.       Do you remember receiving  
4   training about this October 2009 memo at any  
5   point in time?

6           A.       I believe they started bringing  
7   us in -- yeah, bringing all the DI's group  
8   supervisors in to discuss -- and give us a  
9   little more training.

10          Q.       After receiving this  
11   October 2009 memo?

12          A.       I don't recall.

13          Q.       Do you think it was somewhere  
14   in that general time frame?

15          A.       It may have been. I believe I  
16   was a group supervisor by then.

17          Q.       And just to be clear, the  
18   October 2009 memo relates to interim  
19   guidelines that were going to be implemented  
20   until the diversion manual was rewritten,  
21   right?

22                   That's what it says on page 1  
23   of Exhibit 24?

24          A.       Yes, that's what it says.

25          Q.       Did you discuss the

1     October 2009 interim guidelines with  
2     Mr. Rannazzisi?

3             A.       No, I don't recall doing that.

4             Q.       Did you discuss it with anybody  
5     else in the Office of Diversion Control?

6             A.       No, I don't recall doing that.

7             Q.       You said you thought you  
8     recalled receiving training on these  
9     October 2009 interim guidelines.

10            What do you recall about that  
11   training?

12            A.       I just recall -- sorry.

13            MR. JACO: Just to be clear, in  
14   her personal capacity here.

15            MS. SWIFT: Well --

16            MR. JACO: Are you asking her  
17   in her personal capacity?

18            MS. SWIFT: I mean, you gave us  
19   these documents and told us they were  
20   documents that she is to prep on.

21            I understand that your -- is  
22   your position that her testimony on  
23   these documents that you've provided  
24   to us, that, you know, because she  
25   prepped on them, that we can only ask

1           questions about them for some  
2           particular period of time?

3                       I guess the answer to your  
4           question, Andrew, is no. I'm asking  
5           her as the corporate representative.

6                       MR. JACO: Okay. I just  
7           didn't -- it wasn't clear to me if you  
8           were asking if she personally received  
9           training or if training was provided  
10          by DEA.

11                      Go ahead. It sounds like the  
12          latter.

13                      MS. SWIFT: I hear you.

14                      MR. JACO: Can you rephrase the  
15          question?

16                      MS. SWIFT: Yep.

17          QUESTIONS BY MS. SWIFT:

18                      Q. I think I did actually ask  
19          previously whether you personally received  
20          training, and I think you said yes; is that  
21          fair?

22                      A. Yes, that's fair.

23                      Q. Is it also true then that DEA  
24          provided training to diversion program  
25          managers, diversion group supervisors and

1 others on these interim guidelines?

2 A. I mean, it's fair to say  
3 training was provided. I don't know if it  
4 was specifically, you know, on these  
5 guidelines.

6 Q. What is the nature of the  
7 training that you're talking about?

8 A. It was on -- to the best of my  
9 recollection, on scheduled investigations  
10 explaining ARCOS. You know, certain sections  
11 came in and just gave some updates and  
12 trainings.

13 Q. To be clear, did you talk to  
14 Mr. Rannazzisi in preparation for your  
15 deposition today?

16 A. No, I did not.

17 Q. Did you talk to anybody in  
18 preparation for your deposition today about  
19 this October 2009 set of interim guidelines?

20 A. No, I did not.

21 Q. And what was involved in DEA's  
22 training about these October 2009 interim  
23 guidelines? What were folks trained on?

24 A. I remember someone from the  
25 ARCOS unit being there and discussing, like,

1     you know, the analysis, like here where it's  
2     telling us prior to, so it was understanding  
3     that a little bit.

4                     And then I believe it was, I'll  
5     have to say, discussing -- probably  
6     reiterated like suspicious order -- what's in  
7     here, reporting and then discussing, you  
8     know, like the due diligence and stuff.

9                     So I think some of the sections  
10    covered some of these -- some of these and  
11    probably then also brought up, you know, just  
12    reminders and kind of -- it was like a  
13    refresher almost from the diversion manual  
14    to, excuse me, to scheduled investigations.

15            Q.     Did you review this  
16    October 2009 memo in preparation for your  
17    deposition today?

18            A.     I'm sorry, could you repeat  
19    that?

20            Q.     Did you review the October 2009  
21    interim guidelines in preparation for your  
22    deposition?

23            A.     Yes.

24            Q.     Who provided the training that  
25    you're talking about?

1           A.       I believe it was different  
2   section chiefs at the time in DEA  
3   headquarters.

4           Q.       Do you remember their names?

5           A.       I'm sorry, I don't.

6           Q.       Again, the set of interim  
7   guidelines says that "these are interim  
8   guidelines that will be implemented until  
9   such time as the diversion manual is  
10  finalized."

11                   And then in the third paragraph  
12  it refers to these guidelines as "changes and  
13  requirements," correct?

14          A.       Sorry, it's down too many  
15  pages.

16                   Yes.   Sorry.

17          Q.       And then in the attachments,  
18  attachment number 1 is listed as "interim  
19  policy in lieu of diversion manual changes,"  
20  correct?

21          A.       Yes.

22          Q.       The October 20, 2009 interim  
23  guidelines are not a copy of the updated  
24  version of the diversion manual that is being  
25  referenced, right?  It's not the same thing?

1 MR. JACO: Objection. Form.

2 THE WITNESS: That would be  
3 correct.

4 QUESTIONS BY MS. SWIFT:

5 Q. In fact, they're interim  
6 guidelines to be used in lieu of the new  
7 diversion investigator's manual that's to be  
8 finalized at some future date after  
9 October 2009, correct?

10 A. Yes, that's what's stated on  
11 the memo.

12 Q. The October 2009 interim  
13 guidelines reflect changes to requirements  
14 provided in the prior version of the  
15 diversion manual, right? That's what it  
16 says?

17 MR. JACO: Objection. Form.

18 THE WITNESS: I'm sorry, can  
19 you repeat the question again?

20 QUESTIONS BY MS. SWIFT:

21 Q. Sure.

22 The October 2009 interim  
23 guidelines reflect changes and requirements  
24 that are supposed to be used until an updated  
25 version of the diversion manual is released?

1 MR. JACO: Same objection.

2 THE WITNESS: Yes, that's  
3 correct.

4 QUESTIONS BY MS. SWIFT:

5 Q. All right. Turn to page 3 of  
6 the October 2009 interim guidelines.

7 And under the paragraph about  
8 suspicious order reporting, it says, "The  
9 registrant does not fill the order but  
10 reports same to their local field office."

11 Correct?

12 A. Yes, that's what it says.

13 Q. And Mr. Rannazzisi put in bold  
14 and underlined the words "does not fill,"  
15 because that's one of the changes in  
16 requirements that the interim guidelines are  
17 meant to convey, right?

18 MR. JACO: Objection. Form.  
19 Misstates the document.

20 THE WITNESS: Well, the -- "by  
21 nature of an order." As put in the  
22 regulations, it says, "suspicious  
23 orders by nature of an order." That's  
24 something that is not filled yet.

25 So it's being reiterated here,

1 but it was always DEA's -- it was  
2 always the understanding that DEA and  
3 diversion investigators were trained  
4 on that it related to the order.

5 QUESTIONS BY MS. SWIFT:

6 Q. Who told you that?  
7 What is the basis of your  
8 testimony that you give today? Who told you  
9 that?

10 A. I'm sorry?

11 MR. MOUGEY: You cannot hear  
12 the attorney.

13 MS. SWIFT: Can you hear me  
14 now?

15 MR. MOUGEY: Very muffled.

16 MR. JACO: Muffled, yeah.

17 MS. SWIFT: How about now?

18 MR. JACO: That's better.

19 MR. MOUGEY: Getting better.

20 QUESTIONS BY MS. SWIFT:

21 Q. What is the basis of the  
22 testimony you gave a moment ago, Ms. Brennan?

23 A. The basis is based on DEA's  
24 training and understanding of the  
25 regulations.

1           Q.       My specific question is: Who  
2       told you that that was always DEA's  
3       understanding? Who told you that?

4           A.       I mean, nobody told me that was  
5       DEA's -- that -- that's what we were trained  
6       on, and that's what the regulations state.

7           Q.       Who trained you on that,  
8       specifically on that particular point?

9           A.       I mean, we were trained in  
10      Quantico. I was trained in the field.

11          Q.       Can you point to any document  
12      prior to this 2009 set of interim guidelines  
13      that says the registrant does not fill the  
14      order but reports same to their local field  
15      office?

16                   MR. JACO: Objection. Form.

17                   THE WITNESS: Sorry.

18                   MR. JACO: Go ahead, sorry.

19                   THE WITNESS: The regulations  
20      state that an order, suspicious order,  
21      when a system is in place, that has to  
22      be sent, reported, to DEA. And also  
23      in our reg -- in our manual, it also  
24      discusses that.

25

1 QUESTIONS BY MS. SWIFT:

2 Q. {Audio interruption} -- whether  
3 fills an order?

4 MR. JACO: You're fading out  
5 again, Kate.

6 MS. SWIFT: Give me a minute.

7 (Discussion off the record.)

8 MS. SWIFT: And actually, could  
9 we go off the record so we can fix  
10 this? Because I'm not really sure how  
11 I'm going to fix it.

12 VIDEOGRAPHER: Yes. We are  
13 going off record. The time is  
14 3:38 p.m.

15 (Off the record at 3:38 p.m.)

16 VIDEOGRAPHER: We're going back  
17 on record. The time is 3:41.

18 QUESTIONS BY MS. SWIFT:

19 Q. Ms. Brennan, the regulation  
20 that you referred to a moment ago, were you  
21 referring to the suspicious order monitoring  
22 regulation, Section 1301.74(b)?

23 A. Yes.

24 Q. That regulation reads in full:  
25 "The registrant shall design and operate a

1 system to disclose to the registrant  
2 suspicious orders of controlled substances.  
3 The registrant shall inform the field  
4 division office of the administration in his  
5 area of suspicious orders when discovered by  
6 the registrant. Suspicious orders include  
7 orders of unusual size, orders deviating  
8 substantially from a normal pattern, and  
9 orders of unusual frequency."

10 It doesn't say anything about  
11 whether a registrant is not supposed to fill  
12 an order, correct?

13 A. No, it doesn't specify right  
14 there.

15 Q. It also doesn't say anything  
16 about whether a registrant is supposed to  
17 perform due diligence, correct?

18 MR. JACO: Objection. Form.

19 THE WITNESS: Due diligence  
20 isn't mentioned there specifically,  
21 no.

22 QUESTIONS BY MS. SWIFT:

23 Q. Did you ever ask Mr. Rannazzisi  
24 why he bolded and underlined the phrase "does  
25 not fill" in these October 2009 interim

1 guidelines?

2 A. No.

3 Q. You don't know why that phrase,  
4 "does not fill," is bolded and underlined,  
5 correct?

6 A. No, I don't know why he --

7 MR. JACO: Objection.

8 QUESTIONS BY MS. SWIFT:

9 Q. Then if you'll take a look at  
10 the next sentence for me, it says, "Excessive  
11 purchase reports from registrants, reports of  
12 unusual sales, will no longer be accepted by  
13 the DEA."

14 Correct?

15 A. Yes, that's what it says.

16 Q. Mr. Rannazzisi bolded and  
17 underlined the phrase "will no longer be  
18 accepted."

19 Correct?

20 A. Yes.

21 Q. And again, that's because this  
22 is one of the changes in requirements that  
23 the interim guidelines were meant to convey,  
24 right?

25 MR. JACO: Objection. Form.

1 Mischaracterizes the document.

2 QUESTIONS BY MS. SWIFT:

3 Q. Do you know one way or the  
4 other?

5 A. I don't know what exactly he  
6 was conveying, but I know the suspicious  
7 order reporting, the regulation was always  
8 there. And, you know, we were trained that  
9 an order is different than a purchase.

10 Q. Well, that's interesting that  
11 you say that. The phrase in parentheses here  
12 is "reports of unusual sales," correct?

13 Do you see that?

14 A. Yes.

15 Q. The phrase "reports of unusual  
16 sales" appears to reference reports of  
17 suspicious orders that had been shipped.

18 Would you agree with that?

19 MR. JACO: Objection. Form.

20 THE WITNESS: I mean, he's put  
21 it there under talking about excessive  
22 purchases.

23 QUESTIONS BY MS. SWIFT:

24 Q. You were designated as a  
25 30(b)(6) witness on behalf of the DEA on

1 specific subjects, correct?

2 A. Yes.

3 Q. And in fact, the DEA and the  
4 Department of Justice went through a  
5 relatively detailed process to authorize you  
6 to testify on only those subjects, correct?

7 A. That's my understanding from  
8 the attorneys.

9 Q. And then the specific subjects  
10 you were authorized to testify about by the  
11 Department of Justice and the DEA are the  
12 topics that are listed in the Touhy  
13 authorization marked as Exhibit 20 that we  
14 discussed this morning, correct?

15 A. Yes.

16 Q. Those topics did not include  
17 the meaning or interpretation of the  
18 Controlled Substances Act or its regulations,  
19 correct?

20 A. That would be correct.

21 Q. Do you understand, Ms. Brennan,  
22 that the DEA has just very recently, within  
23 the past couple of weeks, proposed a new rule  
24 that would require due diligence to be  
25 performed on suspicious orders prior to

1 shipment?

2 MR. JACO: Objection. Scope.

3 You can answer.

4 THE WITNESS: I understand that  
5 there's regulations being proposed,  
6 but I -- I haven't been part of that.

7 QUESTIONS BY MS. SWIFT:

8 Q. And that new rule, that new  
9 regulation, has not been enacted yet. It's  
10 not Code of Federal Regulations, correct?

11 MR. JACO: Same objection.  
12 Outside the scope.

13 She can testify in her personal  
14 capacity.

15 You can answer.

16 THE WITNESS: I believe it's in  
17 a -- I think it's in a proposed  
18 rulemaking, but, no, it hasn't been  
19 finalized yet.

20 QUESTIONS BY MS. SWIFT:

21 Q. October of 2009 interim  
22 guidelines that we've been talking about, if  
23 you look at the page -- let's see, it's  
24 page 3 that talks about due diligence. We  
25 spoke about it a little this morning.

1 Do you remember that?

2 A. Yes.

3 Q. It says that the diversion  
4 investigators are "required to do a thorough  
5 review of the registrant's due diligence  
6 procedures," correct?

7 A. Yes.

8 Q. And they're also required to  
9 document that, right?

10 A. Yes, that's what it says here.

11 Q. And we've seen throughout the  
12 dozen or so investigation reports that we  
13 reviewed today that when the diversion  
14 investigators find violations, they do  
15 document them, right?

16 A. Yes.

17 MR. JACO: Objection.

18 QUESTIONS BY MS. SWIFT:

19 Q. We didn't see -- in any of the  
20 investigation reports we looked at today, we  
21 didn't see the DEA find any fault with  
22 Walgreens' due diligence procedures, correct?

23 MR. JACO: Objection. Form.

24 THE WITNESS: Well, it also  
25 states here that DEA will not approve,

1 certify or assist them, so --

2 QUESTIONS BY MS. SWIFT:

3 Q. I understand. That wasn't my  
4 question.

5 My question was: In all of the  
6 investigation reports we looked at today, we  
7 did not see DEA find any violation with  
8 respect to due diligence.

9 That's a true statement, right?

10 MR. JACO: Same objection.

11 THE WITNESS: Of the ones we  
12 looked at today, no, we didn't see it  
13 listed as a violation.

14 QUESTIONS BY MS. SWIFT:

15 Q. And I'm glad you said "of the  
16 ones we looked at today." I wanted to ask  
17 you a couple of questions about the process  
18 by which we came to the documents we looked  
19 at today.

20 Do you have an understanding  
21 that the reason you were authorized to  
22 testify on the Walgreens investigation  
23 reports that appear in the Touhy  
24 authorization is because those -- that --  
25 that list of investigation reports

1 constitutes every investigation report of  
2 those three distribution centers that DEA has  
3 produced to us? It's everything we have.

4 Do you have an understanding of  
5 that?

6 MR. MOUGEY: Objection.

7 THE WITNESS: Yes.

8 QUESTIONS BY MS. SWIFT:

9 Q. And in all of those  
10 investigation reports for those three  
11 distribution centers, we didn't see a single  
12 violation relating to due diligence on  
13 suspicious orders, correct?

14 MR. JACO: Objection. Form.

15 THE WITNESS: Again, that's  
16 correct, but it would be how we were  
17 trained.

18 QUESTIONS BY MS. SWIFT:

19 Q. Often we didn't see anything  
20 about Walgreens' due diligence procedures in  
21 the reports, correct?

22 MR. JACO: Objection. Form.

23 THE WITNESS: That's correct.

24 QUESTIONS BY MS. SWIFT:

25 Q. And is that consistent with

1     your own practice when you were acting as a  
2     diversion investigator, that sometimes you  
3     would document due diligence procedures and  
4     sometimes you wouldn't?

5                     MR. JACO:  Objection.  Form.

6                     THE WITNESS:  Well, this is  
7                     part of the due diligence as part of  
8                     the memo -- of this memo, so at this  
9                     time it would have started being  
10                    included.

11  QUESTIONS BY MS. SWIFT:

12                    Q.       In your experience at DEA, the  
13                    diversion investigators follow the  
14                    instructions and guidance provided in the  
15                    diversion investigator's manual and interim  
16                    guidelines like what we see in the  
17                    October 2009 memo, right?

18                    A.       Yes, that's the expectation.

19                    Q.       And I believe what I asked you,  
20                    if you could point me to anything other than  
21                    this memo from October of 2009 instructing  
22                    the investigators to make sure that  
23                    registrants were performing diligence before  
24                    they shipped.

25                    I believe you pointed to the

1 regulation; is that right?

2 MR. MOUGEY: Objection.

3 Is that just within the scope

4 of the approved documents --

5 MR. JACO: Objection.

6 MR. MOUGEY: -- or is that in

7 total?

8 QUESTIONS BY MS. SWIFT:

9 Q. Do you understand the question?

10 A. Yes. And -- yes. I pointed to  
11 the regulation.

12 Q. And we read the regulation, and  
13 you confirmed for me that it does not say  
14 anything about due diligence, correct?

15 A. Correct.

16 Q. Can you point me to anything  
17 else, anywhere, that instructs diversion  
18 investigators, or registrants in particular,  
19 to conduct due diligence on orders before  
20 they are shipped?

21 A. I'm aware in our -- in the  
22 manual that it says a letter was sent to the  
23 registrants back around 2006 explaining it,  
24 and then that also gives us -- tells us that  
25 it should not be shipped prior to

1 investigating it by the registrant.

2 Q. Can you identify -- and are you  
3 speaking about the current diversion  
4 investigator's manual?

5 A. I'm speaking about the one that  
6 was provided as part of this testimony, the  
7 sections.

8 Q. What is the date on that  
9 manual?

10 A. I believe it's 2013.

11 Q. And you referenced a 2006  
12 letter; is that right?

13 A. Yes.

14 Q. Was that a letter from  
15 Mr. Rannazzisi?

16 A. I haven't seen it recently, but  
17 I believe it was.

18 Q. Okay. Can you point me to  
19 anything else?

20 A. No.

21 (Brennan 30(b)(6) Exhibit 26  
22 marked for identification.)

23 QUESTIONS BY MS. SWIFT:

24 Q. All right. Take a look, if you  
25 would, please, at Exhibit Number 26.

1                   And actually, before I ask you  
2    about Exhibit Number 26, Dan, can you tell me  
3    how much time I have on the record?

4                   VIDEOGRAPHER: Yeah. Stand by.  
5                   Three hours, 12 minutes.

6    QUESTIONS BY MS. SWIFT:

7           Q.       Okay. Exhibit 26 is one of the  
8    other documents that your lawyers provided us  
9    on Wednesday that -- it's my understanding  
10   these are documents that you reviewed during  
11   your prep for the deposition.

12                   Is that true with respect to  
13   Exhibit Number 26?

14           A.       Yes.

15           Q.       Exhibit 26 is an October 5,  
16   2010, memo from Mr. Rannazzisi, again, to  
17   diversion program managers and diversion  
18   investigators and others about  
19   modifications -- or modification of  
20   controlled substance and chemical work plan,  
21   correct?

22           A.       Yes.

23           Q.       This memo, in the first  
24   paragraph, says, "Enhanced criteria for  
25   scheduled investigation work plans were most

1 recently implemented by a memorandum dated  
2 March 25, 2009."

3 Do you see that?

4 A. Yes.

5 Q. We do not, "we" meaning  
6 Walgreens, we have not seen this March 25,  
7 2009 memo that is referenced here.

8 Is that something that you  
9 reviewed in your preparation?

10 A. I'm just looking back because  
11 I'm getting the other one that was March.  
12 October.

13 I don't recall. I know this  
14 one -- this October 27th one.

15 MS. SWIFT: Right. And,  
16 Andrew, I'll represent to you that we  
17 have looked for this memo and cannot  
18 find it. I don't believe it's been  
19 produced.

20 We'd ask that it be produced,  
21 if you can find it.

22 MR. JACO: Okay. We can follow  
23 up on that. I can -- I can represent  
24 that that is not something she  
25 reviewed.

1 MS. SWIFT: Thank you. I  
2 appreciate that.

3 QUESTIONS BY MS. SWIFT:

4 Q. Ms. Brennan, do you know what  
5 the enhanced criteria are that are referenced  
6 in the first paragraph of Exhibit 26?

7 A. I believe -- let's see. It  
8 changed -- I'm trying to remember the years  
9 we had. I believe it changed some of the  
10 requirements of the frequency of the cyclic  
11 investigations for the registrants, of which  
12 it says that's -- yeah, at the time it  
13 increased overall frequency.

14 Q. Do you know whether the  
15 enhanced criteria had anything to do with  
16 suspicious order monitoring or due diligence?

17 A. No, I don't know that.

18 Q. Do you know whether the  
19 enhanced criteria that are described here are  
20 connected in any way to the rewriting of the  
21 diversion manual that was discussed in the  
22 October 2009 interim guidelines?

23 A. No, I'm not sure if that  
24 included that or if those were other things.

25 Q. Now, I asked you some questions

1 this morning about what diversion  
2 investigators do when they go on site to  
3 conduct a cyclic investigation.

4 Do you remember those  
5 questions?

6 A. Yes.

7 Q. And then plaintiffs' counsel  
8 asked you questions about, well, wouldn't you  
9 have liked to know about all these other  
10 things.

11 Do you remember those  
12 questions?

13 A. Yes.

14 Q. Is it a fair statement that a  
15 diversion investigator who goes on site to  
16 investigate a distribution center can ask to  
17 talk to whoever they want to talk to?

18 A. Yes.

19 Q. Is it a fair statement that the  
20 diversion investigators can request whatever  
21 documents they need to conduct their  
22 investigation?

23 A. Yes.

24 Q. Do the diversion investigators  
25 have the leeway to ask as many questions as

1 they want in order to reach the conclusions  
2 that are reflected in their investigation  
3 reports?

4 A. Yes.

5 Q. And that's their job, right?

6 It's important that they do  
7 thorough investigations to make sure they  
8 have the information they need before they  
9 write that report; is that fair?

10 A. Yes.

11 Q. That's an important part of a  
12 diversion investigator's job, because if the  
13 reports that they put out aren't based on  
14 thorough, complete information, they're --  
15 that could -- that could lead to diversion,  
16 potentially?

17 MR. JACO: Objection. Form.

18 QUESTIONS BY MS. SWIFT:

19 Q. Well, maybe you don't agree  
20 with that. I mean, I'm just asking.

21 A. The report should reflect the  
22 investigation, and the investigation is what  
23 you hope to not have, you know, diversion.

24 Q. In preparing for your  
25 deposition today and reviewing all of the

1 Walgreens investigation reports that DEA  
2 produced to us, did you see any reason to  
3 think that any of the diversion investigators  
4 who wrote those reports failed to conduct  
5 thorough, complete investigations?

6 A. I think it's hard to  
7 blanket-statement that as to, you know,  
8 exactly what they did. I mean, they -- the  
9 reports reflected the investigations that  
10 they did.

11 Q. If a registrant does not  
12 provide complete and accurate information  
13 that the diversion investigator asks for,  
14 wouldn't the diversion investigator put that  
15 in the report?

16 MR. JACO: Objection. Form.

17 THE WITNESS: That would be the  
18 expectation.

19 QUESTIONS BY MS. SWIFT:

20 Q. And you didn't see any of that,  
21 any indication of anything like that, in any  
22 of these reports, correct?

23 A. I mean, without being there on  
24 site and doing it, I can't be for sure.

25 Q. I mean, you didn't see anything

1 documented about that?

2 A. Right. What we saw documented  
3 were the violations that they said they  
4 found.

5 Q. And you would have every  
6 expectation that the DEA investigators would  
7 document every violation they found, right?

8 A. I mean, normally you discuss  
9 it, but I can't say, you know, that's  
10 something that was discussed and it didn't  
11 make it in the report.

12 Q. Now, {audio interruption} --  
13 included every cyclic investigation of the  
14 three Walgreens distribution centers the DEA  
15 produced to us.

16 Are you aware of any other  
17 Walgreens investigation reports for those  
18 three distribution centers that DEA has but  
19 didn't include in the set that you have?

20 A. I'm not -- I'm not, but I  
21 didn't -- I wasn't involved in looking for  
22 any of these records.

23 Q. You're certainly not aware that  
24 the DEA withheld any information from you  
25 about its investigations from Walgreens?

1 A. Not that I'm aware of.

2 Q. Do you understand how the Touhy  
3 authorization process works?

4 A. Yes, as explained to me.

5 MR. JACO: Objection. Scope.

6 The witness can answer in her  
7 personal capacity.

8 QUESTIONS BY MS. SWIFT:

9 Q. It's not up to you what you get  
10 to testify about on behalf of DEA, correct?

11 A. That's correct.

12 Q. There's a process, and I'll  
13 confess I don't understand all of it, but  
14 there's a process the DEA goes through to  
15 determine the specific topics that you will  
16 be authorized to talk about, correct?

17 MR. JACO: Same objection.

18 The witness can answer in her  
19 personal capacity, if she knows.

20 THE WITNESS: Yes, I understand  
21 as far as the process that was  
22 explained to me by the attorneys.

23 QUESTIONS BY MS. SWIFT:

24 Q. Now, a number of the  
25 investigation reports we looked at today

1 actually did reference documents that had  
2 been prepared by Walgreens, right?

3 A. Some of them did, yes.

4 Q. And those were included in your  
5 Touhy authorization. You were allowed to  
6 talk about those, right?

7 A. Yes.

8 Q. All right. Plaintiffs' counsel  
9 asked you some questions about a May 2006  
10 internal Walgreens memo from Justin Joseph to  
11 Todd Polarolo.

12 Do you have that handy?

13 A. Yes.

14 Q. And he asked you questions  
15 about the paragraph set off by the regulation  
16 1301.74(b).

17 Right?

18 A. Yes.

19 Q. I'd like for you --

20 MR. JACO: Just reiterate my  
21 standing objection from earlier that  
22 any of her answers with respect to  
23 this document are in her personal  
24 capacity and not on behalf of DEA.

25 MS. SWIFT: I understand, and

1 I'll agree with you that this  
2 testimony is in her personal capacity.

3 QUESTIONS BY MS. SWIFT:

4 Q. If you would, please,  
5 Ms. Brennan, I'd like you to take a look at  
6 Exhibit 6, the May 2006 DEA letter, and have  
7 it next to the May 2006 Walgreens memo.

8 Okay?

9 A. Yes.

10 Q. The DEA's letter is dated  
11 May 17, 2006, correct?

12 A. Yes, the one that DEA was  
13 unable to find. But, yes, that's the one  
14 we're referring to.

15 Q. And it's a letter to  
16 Mr. Polarolo, right?

17 A. Yes.

18 Q. And then the memo from  
19 Walgreens is dated ten days later on  
20 May 27th, correct?

21 A. Yes.

22 Q. And it's also to Mr. Polarolo,  
23 and it has a subject line, "DEA audit  
24 preliminary response, March 6, '06," right?

25 A. Yes.

1           Q.       And I'd like you to compare  
2     paragraph 1 from the May 2006 DEA letter to  
3     that same -- the 1301.74(b) paragraph in the  
4     May 2006 Walgreens memo.

5                   And my question for you is: Is  
6     there anything inconsistent here? I mean, I  
7     know they're not word-for-word the same.

8           A.       Yes, it looks like -- similar,  
9     consistent.

10          Q.       All right. Plaintiffs' counsel  
11     also asked you some questions about the  
12     Chemical Handler's Manual.

13                   Do you remember those  
14     questions?

15          A.       Yes.

16          Q.       And I believe you testified  
17     that the Chemical Handler's Manual was  
18     drafted for List I chemicals.

19                   Is that fair?

20          A.       Yes.

21          Q.       Do you recall seeing in the  
22     July 28, 2006 letter that Walgreens sent to  
23     Barbara Dobric at the DEA that Walgreens told  
24     the DEA, we're going to use the Chemical  
25     Handler's Manual, Appendix E-3, for

1 suspicious order monitoring of controlled  
2 substances?

3 A. Yes.

4 Q. Walgreens wasn't hiding that  
5 from the DEA, correct?

6 A. Yes.

7 MR. JACO: Objection. Form.

8 QUESTIONS BY MS. SWIFT:

9 Q. Do you recall that in the 2009  
10 Perrysburg report marked as Exhibit 9, DEA  
11 reported that Mr. Kneller, again, told DEA,  
12 we're using the Chemical Handler's Manual,  
13 Appendix E-3, for monitoring of suspicious  
14 orders of controlled substances?

15 Do you recall that?

16 A. Yes.

17 Q. And do you recall after that  
18 investigation report the Perrysburg closing  
19 document that we looked at where DEA  
20 concluded that all violations had been  
21 resolved as of that point in time?

22 A. Yes.

23 Q. And we didn't see any other  
24 documents after that point in time  
25 identifying any violations with respect to

1 suspicious order monitoring or reporting of  
2 controlled substances, correct?

3 A. Correct. We started -- we saw  
4 that it was documented. They had one.

5 MS. SWIFT: All right. I'm  
6 going to reserve the rest of my time.  
7 I don't have any other questions right  
8 now.

9 MR. JACO: Before we jump  
10 ahead, we've been going for quite a  
11 while on the record.

12 Ms. Brennan, do you need a  
13 break?

14 MR. MOUGEY: I do.

15 MR. JACO: Yeah, I think let's  
16 take a ten-minute break and come back.

17 VIDEOGRAPHER: Okay. We're  
18 going off record. The time is 4:10.

19 (Off the record at 4:10 p.m.)

20 VIDEOGRAPHER: We're going back  
21 on record. The time is 4:21.

22 MR. MOUGEY: We'll make it real  
23 easy. We don't have any more  
24 questions.

25 I saw Ms. Brennan smile just a

1           little bit.

2                   MS. SWIFT:   Afraid of what I'm  
3           going to say.

4                   MR. MOUGEY:   Here comes Kate.

5                   MS. SWIFT:   We don't have any  
6           other questions either.

7                   MR. MOUGEY:   All right.

8                   MS. SWIFT:   Thank you very much  
9           for your time today.

10                  MR. JACO:    All right.

11                  MR. MOUGEY:   Thanks, everybody.

12                  VIDEOGRAPHER:  This concludes  
13           today's deposition.  We're going off  
14           record.  The time is 4:22.

15           (Deposition concluded at 4:22 p.m.)

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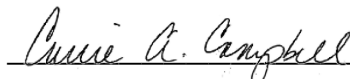
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CERTIFICATE

I, CARRIE A. CAMPBELL, Registered  
Diplomate Reporter, Certified Realtime  
Reporter and Certified Shorthand Reporter, do  
hereby certify that prior to the commencement  
of the examination, Claire Brennan, was duly  
sworn by me to testify to the truth, the  
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the  
foregoing is a verbatim transcript of the  
testimony as taken stenographically by and  
before me at the time, place and on the date  
hereinbefore set forth, to the best of my  
ability.

I DO FURTHER CERTIFY that I am  
neither a relative nor employee nor attorney  
nor counsel of any of the parties to this  
action, and that I am neither a relative nor  
employee of such attorney or counsel, and  
that I am not financially interested in the  
action.



CARRIE A. CAMPBELL,  
NCRA Registered Diplomate Reporter  
Certified Realtime Reporter  
Notary Public

Dated: November 19, 2020

1 INSTRUCTIONS TO WITNESS

2  
3 Please read your deposition over  
4 carefully and make any necessary corrections.  
5 You should state the reason in the  
6 appropriate space on the errata sheet for any  
7 corrections that are made.

8 After doing so, please sign the  
9 errata sheet and date it. You are signing  
10 same subject to the changes you have noted on  
11 the errata sheet, which will be attached to  
12 your deposition.

13 It is imperative that you return  
14 the original errata sheet to the deposing  
15 attorney within thirty (30) days of receipt  
16 of the deposition transcript by you. If you  
17 fail to do so, the deposition transcript may  
18 be deemed to be accurate and may be used in  
19 court.

1 ACKNOWLEDGMENT OF DEPONENT

2  
3  
4 I, \_\_\_\_\_, do  
hereby certify that I have read the foregoing  
5 pages and that the same is a correct  
transcription of the answers given by me to  
6 the questions therein propounded, except for  
the corrections or changes in form or  
7 substance, if any, noted in the attached  
Errata Sheet.

8  
9  
10  
11  
12 \_\_\_\_\_  
Claire Brennan

Date

13  
14  
15 Subscribed and sworn to before me this  
16 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

17 My commission expires: \_\_\_\_\_  
18

19 Notary Public  
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## LAWYER'S NOTES

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